

STATE OF SOUTH CAROLINA  
COUNTY OF HAMPTON

IN THE COURT OF  
COMMON PLEAS

- - -

RICHARD LIGHTSEY, LEBRIAN  
CLECKLEY, PHILLIP COOPER,  
ET AL., ON BEHALF OF THEMSELVES  
AND ALL OTHERS SIMILARLY  
SITUATED,

Plaintiffs,

vs.

SOUTH CAROLINA ELECTRIC & GAS  
COMPANY, A WHOLLY OWNED  
SUBSIDIARY OF SCANA, SCANA  
CORPORATION, AND THE STATE OF  
SOUTH CAROLINA,

Defendants,

SOUTH CAROLINA OFFICE OF  
REGULATORY STAFF,

Intervenor.

(Case Caption Continues on Page 2)

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VIDEOTAPED DEPOSITION OF KEVIN MARSH  
VOLUME 1

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DATE TAKEN: Monday, October 29, 2018

TIME BEGAN: 9:08 a.m.

TIME ENDED: 6:18 p.m.

LOCATION: WYCHE, P.A.  
44 East Camperdown Way  
Greenville, SC 29601

REPORTED BY: Karen Kidwell, RMR, CRR, CBC  
EveryWord, Inc.  
P.O. Box 1459  
Columbia, South Carolina 29202  
803-212-0012

1 (Case Caption Continued)

2

3 THE PUBLIC SERVICE COMMISSION  
4 OF SOUTH CAROLINA

5 DOCKET NOS. 2017-207-E, 2017-305-E, AND 2017-370-E

6

7 IN RE: Friends of the Earth and Sierra Club,  
8 Complainant/Petitioner vs. South Carolina  
9 Electric & Gas Company,  
10 Defendant/Respondent

11

12 IN RE: Request of the South Carolina Office of  
13 Regulatory Staff for Rate Relief to SCE&G  
14 Rates Pursuant to S.C. Code Ann. § 58-27-920

15

16 IN RE: Joint Application and Petition of South  
17 Carolina Electric & Gas Company and  
18 Dominion Energy, Incorporated for Review  
19 and Approval of a Proposed Business  
20 Combination between SCANA Corporation and  
21 Dominion Energy, Incorporated, as May Be  
22 Required, and for a Prudency Determination  
23 Regarding the Abandonment of the V.C. Summer  
24 Units 2 & 3 Project and Associated Customer  
25 Benefits and Cost Recovery Plans

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## Kevin Marsh

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<p>1 MONDAY, OCTOBER 29, 2018, GREENVILLE, SOUTH CAROLINA</p> <p>2 P R O C E E D I N G S</p> <p>3 -oOo-</p> <p>4 VIDEOGRAPHER: Good morning. Today's date</p> <p>5 is October 29th, 2018, and the time is 9:08 a.m.</p> <p>6 The witness is Kevin Marsh.</p> <p>7 Would the counsel please identify</p> <p>8 themselves and whom they represent. Then the</p> <p>9 witness will be sworn in by the court reporter,</p> <p>10 after which we may proceed.</p> <p>11 MR. COX: Jim Cox appearing on behalf of</p> <p>12 the South Carolina Office of Regulatory Staff in</p> <p>13 the consolidated PSC proceedings and the State</p> <p>14 Court litigation.</p> <p>15 MR. GALVIN: Greg Galvin. I represent the</p> <p>16 plaintiff ratepayers.</p> <p>17 MR. BELL: Edward Bell representing the</p> <p>18 plaintiff ratepayers.</p> <p>19 MS. SULPIZIO: Gabrielle Sulpizio</p> <p>20 representing the plaintiff ratepayers.</p> <p>21 MR. SOLOMONS: Gibson Solomons for the</p> <p>22 customer class.</p> <p>23 MR. ELLERBE: Frank Ellerbe for Central</p> <p>24 Electric Cooperative and the Electric</p> <p>25 Cooperatives of South Carolina in the</p>	<p>1 S-c-h-m-a-l-z-b-a-c-h, of McGuire Woods, LLP,</p> <p>2 representing Dominion Energy, Incorporated, in</p> <p>3 the PSC proceedings.</p> <p>4 MR. HALTIWANGER: Dan Haltiwanger of the</p> <p>5 Richardson Patrick Westbrook and Brickman Law</p> <p>6 Firm for the plaintiff class.</p> <p>7 KEVIN MARSH</p> <p>8 being first duly sworn, testified as follows:</p> <p>9 MR. COX: Was there another appearance on</p> <p>10 the phone?</p> <p>11 MR. SMITH: This is Emory Smith. I was</p> <p>12 just going to tell the court reporter that I do</p> <p>13 not need a deposition copy or video copy.</p> <p>14 MR. COX: Duly noted.</p> <p>15 EXAMINATION</p> <p>16 BY MR. COX:</p> <p>17 Q. Good morning, Mr. Marsh.</p> <p>18 A. Good morning.</p> <p>19 Q. Mr. Marsh, can you go ahead and spell your</p> <p>20 name again for the record, spelling out your last</p> <p>21 name?</p> <p>22 A. My name is Kevin Marsh, M-a-r-s-h.</p> <p>23 Q. Mr. Marsh, my name is Jim Cox. We met</p> <p>24 just before your deposition began. I am an attorney</p> <p>25 that represents the South Carolina Office of</p>
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<p>1 consolidated PSC proceedings.</p> <p>2 MS. MOODY: Leah Moody, SCANA and SCE&amp;G.</p> <p>3 MS. HODGES: Bryony Hodges, in-house</p> <p>4 counsel for SCANA.</p> <p>5 MR. CHALLY: I'm Jon Chally with King &amp;</p> <p>6 Spalding, also representing SCE&amp;G and SCANA.</p> <p>7 MR. WATKINS: Jon Watkins with Cadwalader</p> <p>8 on behalf of the witness Kevin Marsh.</p> <p>9 MR. HAIR: Brady Hair on behalf of Kevin</p> <p>10 Marsh.</p> <p>11 MS. TOMPKINS: Anne Tompkins with</p> <p>12 Cadwalader on behalf of the witness, Kevin</p> <p>13 Marsh.</p> <p>14 MR. HUBBARD: William Hubbard on behalf of</p> <p>15 Santee Cooper.</p> <p>16 MR. COX: Telephone appearances?</p> <p>17 MS. KING: Ariail King from Lewis Babcock</p> <p>18 for the plaintiff ratepayers.</p> <p>19 MR. SMITH: Emory Smith for the State of</p> <p>20 South Carolina in the Lightsey case and for the</p> <p>21 State, Alan Wilson, Attorney General, in the PSC</p> <p>22 proceedings.</p> <p>23 And John Williams will be substituting for</p> <p>24 me for part of the coverage of the deposition.</p> <p>25 MR. SCHMALZBACH: Brian Schmalzbach,</p>	<p>1 Regulatory Staff in a couple different proceedings.</p> <p>2 One set of proceedings is a consolidated</p> <p>3 proceeding in front of the South Carolina Public</p> <p>4 Service Commission that is set to go to a hearing on</p> <p>5 Thursday of this week, November 1st. The second</p> <p>6 proceeding in which I represent the ORS is a State</p> <p>7 Court litigation brought by customers of SCE&amp;G and</p> <p>8 Santee Cooper against the companies, those companies.</p> <p>9 And now is the time set for your</p> <p>10 deposition in these actions, which has been noticed</p> <p>11 in both of those actions.</p> <p>12 I wanted to start just by providing you a</p> <p>13 little background on how a deposition works. Have</p> <p>14 you ever had your deposition taken before?</p> <p>15 A. I have done one. It's been a number of</p> <p>16 years ago; but, yes, I've done deposition before.</p> <p>17 Q. Was -- that deposition that you had</p> <p>18 before, was that related to your professional career?</p> <p>19 A. It was. It was related to a matter that</p> <p>20 SCE&amp;G was involved in at the time.</p> <p>21 Q. And what was the nature of SCE&amp;G's</p> <p>22 involvement in that litigation?</p> <p>23 A. From what I recall, it regarded some of --</p> <p>24 I guess it was actually SCANA's activities, not</p> <p>25 SCE&amp;G's, some of our telecommunications subsidiaries'</p>

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<p>1 activities. And I was called to give testimony as</p> <p>2 the company's chief financial officer.</p> <p>3 Q. Do you remember about what year that</p> <p>4 testimony you provided occurred?</p> <p>5 A. I don't recall. It's been a number of</p> <p>6 years ago.</p> <p>7 Q. Okay. It was before you became the CEO of</p> <p>8 SCANA and SCE&amp;G, correct?</p> <p>9 A. Yes, it was.</p> <p>10 Q. And what year did you become the CEO of</p> <p>11 SCANA and SCE&amp;G?</p> <p>12 A. Late 2011. I believe it was December of</p> <p>13 2011.</p> <p>14 Q. That litigation in which you gave a</p> <p>15 deposition, was SCANA a defendant in the lawsuit?</p> <p>16 A. I don't know if a lawsuit had been filed</p> <p>17 at that point. I believe it had. I don't recall the</p> <p>18 details of the situation.</p> <p>19 Q. Do you know how that proceeding was</p> <p>20 resolved?</p> <p>21 A. I don't recall.</p> <p>22 Q. Okay. Just to go back over how a</p> <p>23 deposition works since it's been a while since that</p> <p>24 deposition -- and just to be clear, that was the only</p> <p>25 deposition you've had before today?</p>	<p>1 MR. WATKINS: Objection to form. It's</p> <p>2 compound.</p> <p>3 THE WITNESS: Yeah. Both the House and</p> <p>4 the Senate had formed special committees to do</p> <p>5 an investigation of the circumstances around the</p> <p>6 abandonment of the nuclear project. So both --</p> <p>7 both groups held hearings, and I testified one</p> <p>8 time before each group.</p> <p>9 BY MR. COX:</p> <p>10 Q. So is that a total of two occasions that</p> <p>11 you testified?</p> <p>12 A. Yes. Two occasions including both groups,</p> <p>13 not two to each group.</p> <p>14 Q. So just to be clear, you testified once to</p> <p>15 the House group and once to the Senate group; is that</p> <p>16 correct?</p> <p>17 A. That's correct.</p> <p>18 Q. I'll be asking you questions today, and</p> <p>19 other attorneys will as well.</p> <p>20 You understand that the oath that you just</p> <p>21 took from the court reporter is the same oath that</p> <p>22 you would take in a courtroom and carries the same</p> <p>23 penalty of perjury? Do you understand that?</p> <p>24 A. I understand that.</p> <p>25 Q. If at any point in time you don't</p>
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<p>1 A. That's the only one I can recall, yes.</p> <p>2 Q. And you've given sworn testimony before</p> <p>3 the South Carolina Public Service Commission on</p> <p>4 several occasions; is that right?</p> <p>5 A. Yes, I have.</p> <p>6 Q. Have you given testimony, sworn testimony,</p> <p>7 before any other bodies besides the South Carolina</p> <p>8 Public Service Commission?</p> <p>9 A. I have testified before the Federal Energy</p> <p>10 Regulatory Commission. I believe that was in 1986.</p> <p>11 And I've also testified before the members</p> <p>12 of the House committee and Senate committees related</p> <p>13 to the abandonment of the nuclear plant.</p> <p>14 Q. Other than that testimony before the House</p> <p>15 and Senate regarding abandonment, have you ever</p> <p>16 testified before the South Carolina House or Senate</p> <p>17 on any other occasions?</p> <p>18 MR. WATKINS: Objection to form.</p> <p>19 THE WITNESS: I don't recall testifying</p> <p>20 before them on any other occasions. I don't</p> <p>21 recall doing that.</p> <p>22 BY MR. COX:</p> <p>23 Q. Was that testimony that you gave regarding</p> <p>24 abandonment, was that to the South Carolina House or</p> <p>25 to the Senate, or do you know?</p>	<p>1 understand a question that I ask, if it's confusing</p> <p>2 in some respect -- for example, if it -- you're not</p> <p>3 sure of the time period I'm talking about or whether</p> <p>4 I'm asking about your personal knowledge or what the</p> <p>5 company knew -- you are certainly free to let me know</p> <p>6 that you do not understand the question, and I can</p> <p>7 try to improve that question.</p> <p>8 I won't realize that you don't understand</p> <p>9 a question, though, if you don't tell me that. So if</p> <p>10 you don't understand a question I ask, will you let</p> <p>11 me know?</p> <p>12 MR. WATKINS: Objection to the form of the</p> <p>13 question.</p> <p>14 THE WITNESS: I will certainly do my best</p> <p>15 to do that.</p> <p>16 BY MR. COX:</p> <p>17 Q. If you need a break at any point in time</p> <p>18 today, we can take a break. I'll just ask that you</p> <p>19 answer the question that I have pending to you.</p> <p>20 But again, I won't know that you need a</p> <p>21 break unless you let me know. Will you let me know</p> <p>22 if you need a break?</p> <p>23 A. Yes, I will.</p> <p>24 Q. You're free at any time to go back and</p> <p>25 correct any testimony that you provide today if you</p>

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<p>1 realize that an answer you gave might have been 2 incomplete or incorrect. 3 Do you understand that? 4 MR. WATKINS: Objection to form. 5 THE WITNESS: Yes, I do. 6 BY MR. COX: 7 Q. I don't want to know about any 8 conversations you had with your attorneys. But other 9 than that, I would like to know what steps you took 10 to prepare for your deposition today. 11 MR. WATKINS: And, Kevin, when answering 12 this question, of course don't divulge the 13 substance of any communications with your 14 lawyers. 15 THE WITNESS: Okay. I had a series of 16 meetings with my lawyers. We reviewed a number 17 of documents to attempt to refresh my memory. 18 BY MR. COX: 19 Q. Anything else that you did? 20 A. Other than reviewing documents and having 21 discussions with my attorneys, no. 22 Q. Did you talk to anyone other than your 23 attorneys to prepare for your deposition today? 24 A. I have not. 25 Q. Did you meet with the attorneys for SCE&amp;G</p>	<p>1 your recollection about the events that occurred when 2 you were the CEO of SCANA and SCE&amp;G? 3 A. I don't remember a particular document. 4 We reviewed a number of documents. I don't recall a 5 particular document. 6 If there's a particular document you have 7 you'd like for me to look at, I'd be glad to do that, 8 but I don't have any particular memories about 9 specific documents. 10 Q. Did you look at any document and, upon 11 review of that document, you realized that it 12 refreshed your recollection about events that 13 occurred in respect to the V.C. Summer Unit 2 and 14 Unit 3 project? 15 MR. WATKINS: Objection to the form of the 16 question. 17 THE WITNESS: I don't. Not necessarily, 18 no. 19 BY MR. COX: 20 Q. So is it fair to say that all the 21 documents you reviewed, when you looked at them, that 22 you had already recalled everything that was in those 23 documents before you looked at them? 24 MR. WATKINS: Objection to form of the 25 question. It mischaracterizes the witness's</p>
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<p>1 to prepare for your deposition? 2 A. I had two meetings with an attorney from 3 SCE&amp;G in preparation for the deposition. 4 Q. What documents did you review to prepare 5 for your deposition? 6 (Instruction not to answer.) 7 MR. WATKINS: I'm going to instruct the 8 witness not to answer that question. 9 If -- your attorney selected documents, so 10 I instruct the witness not to answer. It 11 reflects our work product, of course. 12 BY MR. COX: 13 Q. Did those documents that you reviewed 14 refresh your recollection about events that occurred 15 when you were the CEO and -- the CEO of SCANA and 16 SCE&amp;G? 17 MR. WATKINS: I'm going to object to the 18 form of the question. 19 If there's a particular document you'd 20 like to ask whether it refreshed, that's fine. 21 But to ask all documents, whether they 22 refreshed, I don't think that's a fair question. 23 I object to the form of that question. 24 BY MR. COX: 25 Q. Did any document that you reviewed refresh</p>	<p>1 testimony. 2 THE WITNESS: Some of the documents I was 3 familiar with already during -- that I had seen 4 during other preparations. Other documents that 5 were presented to me, I had no recollection of 6 seeing those before. 7 BY MR. COX: 8 Q. And that's fair enough. Was there any 9 document that you looked at and, upon reading it, you 10 realized that there was a fact in that document that 11 you had forgotten had occurred during the course of 12 the V.C. Summer Unit 2 and Unit 3 project? 13 MR. WATKINS: Objection to the form. It's 14 vague. It's ambiguous. It's been asked and 15 answered. 16 MR. CHALLY: Object to form. 17 THE WITNESS: I don't know of a particular 18 document or statement in the document. I'd have 19 to see what document and what statements. 20 BY MR. COX: 21 Q. Did your attorneys bring the documents to 22 this preparation session that you reviewed? 23 A. I'm assuming they did. They presented to 24 me -- presented them to me in the session. I 25 didn't -- I didn't bring the documents.</p>



## Kevin Marsh

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<p>1 Q. Fair enough.</p> <p>2 A. Yeah.</p> <p>3 Q. I'll be referring at times to the</p> <p>4 construction of the V.C. Summer Unit 2 and Unit 3</p> <p>5 reactors, and instead of referring to that project by</p> <p>6 that entire title, I will be referring just to "the</p> <p>7 project."</p> <p>8 If I refer to "the project," will you</p> <p>9 understand that I'm referring to the V.C. Summer</p> <p>10 Unit 2 and Unit 3 construction project?</p> <p>11 MR. WATKINS: Objection to form.</p> <p>12 THE WITNESS: I believe I understand that.</p> <p>13 BY MR. COX:</p> <p>14 Q. And if I refer to "the Commission" during</p> <p>15 your testimony, can we reach an agreement that when I</p> <p>16 use that term, you'll understand that I'm referring</p> <p>17 to the South Carolina Public Service Commission?</p> <p>18 A. Yes.</p> <p>19 Q. And you understand that "the ORS" stands</p> <p>20 for the South Carolina Office of Regulatory Staff,</p> <p>21 correct?</p> <p>22 A. I do.</p> <p>23 Q. Did you read any deposition transcripts of</p> <p>24 witnesses who have had their deposition taken in this</p> <p>25 action, to prepare for this deposition?</p>	<p>1 the docket in which SCE&amp;G requested approval from the</p> <p>2 Commission to construct the project?</p> <p>3 MR. WATKINS: Objection to form.</p> <p>4 THE WITNESS: I don't recall viewing that</p> <p>5 testimony specifically. I may have reviewed</p> <p>6 portions of the testimony. I don't -- I don't</p> <p>7 recall reading all of it.</p> <p>8 BY MR. COX:</p> <p>9 Q. Did you review testimony that you provided</p> <p>10 to the Commission in 2015 in connection with the</p> <p>11 project?</p> <p>12 A. Yes, I did.</p> <p>13 Q. Did you review testimony that you provided</p> <p>14 to the Commission in 2016 in connection with the</p> <p>15 project?</p> <p>16 A. Yes, I did.</p> <p>17 Q. What is your current employment,</p> <p>18 Mr. Marsh?</p> <p>19 A. I am not currently employed.</p> <p>20 Q. What was your last job?</p> <p>21 A. My last job was as the CEO of SCANA</p> <p>22 Corporation.</p> <p>23 Q. Were you also the CEO of South Carolina</p> <p>24 Electric &amp; Gas as well?</p> <p>25 A. Yes. The way the corporate structure is</p>
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<p>1 MR. WATKINS: Kevin, I'll caution you on</p> <p>2 that. You may answer that yes or no, but not</p> <p>3 divulge the nature of any transcript selected,</p> <p>4 if any, selected by your counsel for you to</p> <p>5 review in preparation.</p> <p>6 THE WITNESS: I have not reviewed any</p> <p>7 transcripts given by others in depositions.</p> <p>8 BY MR. COX:</p> <p>9 Q. Did you review your prior testimony to the</p> <p>10 Commission in preparation for your deposition today?</p> <p>11 MR. WATKINS: Objection to form. Vague</p> <p>12 and ambiguous.</p> <p>13 THE WITNESS: I don't know specifically</p> <p>14 which testimony you're referring to. I've given</p> <p>15 quite a bit of testimony to the Commission.</p> <p>16 BY MR. COX:</p> <p>17 Q. And I'm referring to any of it. Did you</p> <p>18 review any of that testimony to the Commission in</p> <p>19 preparation for your deposition?</p> <p>20 A. I've reviewed some of the testimony I gave</p> <p>21 in connection with the project.</p> <p>22 Q. And that was testimony to the Commission,</p> <p>23 correct?</p> <p>24 A. That was testimony to the Commission.</p> <p>25 Q. Did you review the testimony you gave in</p>	<p>1 done -- was done at that time was, if you were CEO of</p> <p>2 SCANA, you were also CEO of all the operating</p> <p>3 subsidiaries.</p> <p>4 Q. And what were the operating subsidiaries</p> <p>5 that you were also CEO of?</p> <p>6 A. The principal ones would have been South</p> <p>7 Carolina Electric &amp; Gas Company, SCANA Energy, Public</p> <p>8 Service -- PSNC Energy.</p> <p>9 There were some smaller ones that I don't</p> <p>10 recall specific names for, but those were the primary</p> <p>11 operating companies of SCANA Corporation.</p> <p>12 Q. SCANA itself is a holding company; is that</p> <p>13 correct?</p> <p>14 A. Yes, it is.</p> <p>15 Q. You became CEO of SCANA, I think you said,</p> <p>16 in 2011; is that correct?</p> <p>17 A. I believe I said December of 2011.</p> <p>18 Q. Did you also become CEO of all of those</p> <p>19 holding companies at the same time?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 THE WITNESS: Yeah. The other companies</p> <p>22 were not holding companies. They were -- they</p> <p>23 were operating companies.</p> <p>24 To my knowledge, that all took place at</p> <p>25 the same time.</p>

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<p>1 BY MR. COX:</p> <p>2 Q. How were you selected to become CEO, to</p> <p>3 your knowledge?</p> <p>4 A. That -- that determination is made by the</p> <p>5 board of directors.</p> <p>6 Q. The board of directors of SCANA, correct?</p> <p>7 A. That's correct.</p> <p>8 Q. And who notified you that you were</p> <p>9 selected as CEO?</p> <p>10 A. I don't -- I don't recall specifically who</p> <p>11 told me at the time.</p> <p>12 Q. Who was the chairman of the board at the</p> <p>13 time that you became CEO of SCANA?</p> <p>14 A. Well, Bill Timmerman, the previous CEO,</p> <p>15 was also chairman of the board of SCANA. So until he</p> <p>16 was -- he was fully retired and I took over, he would</p> <p>17 technically still be the chairman of the board, so I</p> <p>18 took over when he stepped down.</p> <p>19 Q. Do you know if Mr. Timmerman had a role in</p> <p>20 your selection as CEO of SCANA?</p> <p>21 A. I'm confident he had conversations with</p> <p>22 the board about my -- my responsibilities and</p> <p>23 capabilities.</p> <p>24 Q. Were you involved in any exit agreement</p> <p>25 that Mr. Timmerman had with SCANA when he retired as</p>	<p>1 or participate in the development of the</p> <p>2 agreement.</p> <p>3 BY MR. COX:</p> <p>4 Q. Did Mr. Timmerman continue to be the</p> <p>5 chairman of the board after he retired as CEO of</p> <p>6 SCANA?</p> <p>7 A. No, he did not.</p> <p>8 Q. So he was no longer a member of the board</p> <p>9 after you became CEO; is that correct?</p> <p>10 A. Right. When he retired, he was no longer</p> <p>11 a member of the board nor was he chairman of the</p> <p>12 board.</p> <p>13 Q. Who became the chairman of the board after</p> <p>14 Mr. Timmerman retired?</p> <p>15 A. I did.</p> <p>16 Q. How long were you the chairman of the</p> <p>17 board?</p> <p>18 A. From December of 2011 until I retired on</p> <p>19 January 1st, 2018.</p> <p>20 Q. To your knowledge, how were you selected</p> <p>21 to become chairman of the board?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: I don't know all of the</p> <p>24 criteria that the board considered. I did make</p> <p>25 a presentation to the board regarding my -- my</p>
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<p>1 CEO of SCANA?</p> <p>2 MR. WATKINS: Objection to form.</p> <p>3 MR. CHALLY: Objection.</p> <p>4 THE WITNESS: Yeah. I was not involved in</p> <p>5 any agreements regarding Mr. Timmerman's</p> <p>6 retirement, any special agreements, other than</p> <p>7 normal contractual agreements that were already</p> <p>8 in place.</p> <p>9 BY MR. COX:</p> <p>10 Q. Can you give an example of what you mean</p> <p>11 by "normal contractual agreements"?</p> <p>12 A. I mean he was -- he was a member of the</p> <p>13 SCANA Corporation Retirement Plan and other benefit</p> <p>14 plans just as any other employee would be a member</p> <p>15 of. So to the extent I was involved in making sure</p> <p>16 those plans were -- or activities related to those</p> <p>17 plans were handled properly, I could have been</p> <p>18 involved in some of those, but no special agreements.</p> <p>19 Q. So you were not involved in the</p> <p>20 negotiation or execution of any consulting agreement</p> <p>21 that Mr. Timmerman received after he left his</p> <p>22 position as CEO of SCANA?</p> <p>23 MR. CHALLY: Object to form.</p> <p>24 MR. WATKINS: Objection to form.</p> <p>25 THE WITNESS: Yeah. I did not negotiate</p>	<p>1 experience in issues related to the company</p> <p>2 going forward, and they took that into</p> <p>3 consideration, but I don't know other factors</p> <p>4 they might have considered.</p> <p>5 BY MR. COX:</p> <p>6 Q. To your knowledge, were you selected to</p> <p>7 become chairman of the board at the same time you</p> <p>8 were selected to become CEO of the company?</p> <p>9 A. Yes.</p> <p>10 Q. In your time at SCANA, has the CEO of</p> <p>11 SCANA always been the chairman of the board as well?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: To the best of my</p> <p>14 recollection, I believe that's been the case.</p> <p>15 BY MR. COX:</p> <p>16 Q. What position did you hold prior to</p> <p>17 becoming the CEO of SCANA?</p> <p>18 A. I was the president of SCANA Corporation.</p> <p>19 Q. And how long did you hold that position?</p> <p>20 A. I don't recall specifically. It was</p> <p>21 announced in early 2011 that Mr. Timmerman was going</p> <p>22 to retire. And at that point, the board elected me</p> <p>23 president as an interim step before I became CEO at</p> <p>24 the end of the year in 2011. But I don't recall a</p> <p>25 specific date that that took place.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. To your knowledge, why did the board 2 consider that an interim step, you becoming the 3 president?</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 THE WITNESS: I can't speak to the reasons 6 the board decided to do it that way.</p> <p>7 BY MR. COX:</p> <p>8 Q. Why did you describe it as an "interim 9 step"?</p> <p>10 A. Because it was to cover an interim period 11 between the time I was named president of SCANA and 12 before I became CEO later in the year. That was the 13 interim period I referred to.</p> <p>14 Q. So is it correct to say that when you were 15 named the interim president, you were aware at that 16 time that you would become the CEO of the company?</p> <p>17 MR. WATKINS: Objection to form of the 18 question.</p> <p>19 MR. CHALLY: Same.</p> <p>20 THE WITNESS: Yes.</p> <p>21 BY MR. COX:</p> <p>22 Q. And can you state again, to the best of 23 your recollection, when you were named president of 24 SCANA?</p> <p>25 A. I don't recall the specific date.</p>	<p style="text-align: right;">Page 32</p> <p>1 were you also an employee of SCE&amp;G?</p> <p>2 MR. CHALLY: Same objection.</p> <p>3 THE WITNESS: I was an employee of SCANA 4 Corporation all -- to the best of my knowledge, 5 all during that period. But my assigned 6 responsibilities were as president of South 7 Carolina Electric and Gas Company.</p> <p>8 BY MR. COX:</p> <p>9 Q. And I'm referring now to the time period 10 in 2011 when you were the president of SCANA on an 11 interim basis, were you also an officer or employee 12 of SCE&amp;G?</p> <p>13 MR. CHALLY: Object to form.</p> <p>14 MR. WATKINS: Objection to the form of the 15 question. It's asked and answered. It's 16 compound. And I also object to the extent it 17 calls for a legal conclusion.</p> <p>18 THE WITNESS: I was -- you know, while I 19 was president of SCANA Corporation, I may also 20 have been president of SCE&amp;G. I don't recall 21 when that title dropped off. I could have 22 held -- I might have held both of those titles 23 at the same time. I just don't recall.</p> <p>24 But it all -- both of the -- all during 25 that period, I was a SCANA employee.</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. Is it early 2011, you said?</p> <p>2 A. It was --</p> <p>3 MR. WATKINS: Objection to form. Asked 4 and answered.</p> <p>5 THE WITNESS: It was in the early part of 6 the year.</p> <p>7 BY MR. COX:</p> <p>8 Q. What position did you hold prior to 9 becoming president of SCANA?</p> <p>10 A. I was the president of South Carolina 11 Electric &amp; Gas Company.</p> <p>12 Q. During what time period did you hold that 13 position?</p> <p>14 A. I believe I assumed that position in 2006. 15 I don't recall the specific date, but I believe it 16 was in 2006.</p> <p>17 Q. And you held that position until early 18 2011?</p> <p>19 A. Yes.</p> <p>20 Q. Were you a SCANA employee when you were 21 the president of SCE&amp;G?</p> <p>22 A. Yes, I was.</p> <p>23 MR. CHALLY: Object to form.</p> <p>24 BY MR. COX:</p> <p>25 Q. When you were president of SCANA in 2011,</p>	<p style="text-align: right;">Page 33</p> <p>1 BY MR. COX:</p> <p>2 Q. So is it correct to say that in 2006, you 3 became the president of SCE&amp;G; and then in 2011, you 4 became the president of SCANA and you might also 5 still have been the president of SCE&amp;G while you were 6 the president of SCANA?</p> <p>7 MR. WATKINS: Object to the form of the 8 question. It's compound. It's vague and 9 ambiguous.</p> <p>10 THE WITNESS: That may have been the case. 11 I just don't recall.</p> <p>12 BY MR. COX:</p> <p>13 Q. Before you became president of SCE&amp;G, what 14 was your job position?</p> <p>15 A. I was the chief financial officer for 16 SCANA Corporation.</p> <p>17 Q. During what time period did you hold that 18 position?</p> <p>19 A. I believe that was from 1996 until 2006.</p> <p>20 Q. Were you also the CFO of SCE&amp;G at that 21 time?</p> <p>22 A. Yes. And at that time, what I recall is 23 if you were CFO of SCANA Corporation, you were also 24 the CFO of all of the operating subsidiaries.</p> <p>25 Q. Did you hold any other titles with the</p>

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<p>1 company during the time period that you were CFO?</p> <p>2 MR. WATKINS: Objection to form. It's</p> <p>3 vague and ambiguous.</p> <p>4 BY MR. COX:</p> <p>5 Q. Yeah. That question might have been vague</p> <p>6 when I used the phrase "company" because we're</p> <p>7 talking about two different companies. Let me go</p> <p>8 ahead and rephrase that question.</p> <p>9 Did you hold any other job titles with</p> <p>10 SCE&amp;G and SCANA during the time period that you were</p> <p>11 the CFO of SCANA?</p> <p>12 A. My memory is that while I was CFO of</p> <p>13 SCANA, I was also a vice president of SCANA. I was</p> <p>14 senior VP and vice president of SCANA and chief</p> <p>15 financial officer.</p> <p>16 During that period -- for about an</p> <p>17 18-month period starting in 2001 moving into 2002, I</p> <p>18 also served as president of PSNC Energy, one of our</p> <p>19 operating subsidiaries. I held both of those titles</p> <p>20 concurrently.</p> <p>21 Q. Have you ever provided testimony to the</p> <p>22 North Carolina Public Service Commission?</p> <p>23 A. I believe I testified -- I believe I</p> <p>24 testified at the time SCANA Corporation acquired PSNC</p> <p>25 Energy. That's my memory.</p>	<p>1 Q. What was the time period you held that</p> <p>2 position?</p> <p>3 A. I took over that role in the late '80s. I</p> <p>4 don't recall the specific year.</p> <p>5 Q. What position did you hold prior to that</p> <p>6 VP controller position?</p> <p>7 A. I was the group manager of technical</p> <p>8 accounting for SCE&amp;G. I take -- that may have been</p> <p>9 for SCANA Corporation.</p> <p>10 When I started the role, it was SCE&amp;G</p> <p>11 because we didn't have the holding company at that</p> <p>12 time. The holding company was formed the year I</p> <p>13 became controller, so I was then controller of SCANA</p> <p>14 Corporation.</p> <p>15 Q. So SCANA was formed in the late 1980s?</p> <p>16 A. I need to -- I need to think a minute to</p> <p>17 get my dates right. I may have misstated that. I</p> <p>18 joined the company in 1984 as the group manager of</p> <p>19 technical accounting for SCE&amp;G.</p> <p>20 SCANA Corporation, as a holding company,</p> <p>21 was formed at the end of that year. And then later</p> <p>22 in the '80s, I became vice president and controller</p> <p>23 of SCANA Corporation.</p> <p>24 Q. Did you work for any other utility</p> <p>25 companies prior to joining SCE&amp;G in 1984?</p>
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<p>1 Q. Do you have any estimate for when that</p> <p>2 time period was?</p> <p>3 A. I believe that acquisition took place</p> <p>4 around 1998, so it would be around that time frame.</p> <p>5 Q. What position did you hold prior to</p> <p>6 becoming the chief financial officer of SCANA?</p> <p>7 A. I was the vice president of finance for</p> <p>8 SCANA Corporation.</p> <p>9 Q. What time period did you hold that</p> <p>10 position?</p> <p>11 A. I don't recall the specific number of</p> <p>12 years prior to becoming CFO, but that was a title --</p> <p>13 that was a job title I held before assuming</p> <p>14 responsibility as CFO.</p> <p>15 Q. What position did you hold prior to</p> <p>16 becoming the VP of finance for SCANA?</p> <p>17 A. I was VP of corporate planning for SCE&amp;G.</p> <p>18 Q. Do you recall the time period you held</p> <p>19 that position?</p> <p>20 A. I recall I was in that role for one to two</p> <p>21 years, but I don't recall the specific dates.</p> <p>22 Q. What position did you hold prior to that</p> <p>23 VP of corporate planning position?</p> <p>24 A. I was the vice president and controller</p> <p>25 for SCANA Corporation.</p>	<p>1 A. I did not.</p> <p>2 Q. What is your educational background?</p> <p>3 A. I've got a bachelor's in business</p> <p>4 administration from the University of Georgia,</p> <p>5 majoring in accounting.</p> <p>6 Q. Any advanced degrees beyond that one?</p> <p>7 A. No.</p> <p>8 Q. Are you a CPA?</p> <p>9 A. I practiced as a CPA. I'm not currently</p> <p>10 practicing as a CPA.</p> <p>11 Q. When did you become a CPA?</p> <p>12 A. I believe it was in 1979.</p> <p>13 Q. You're not an engineer, correct?</p> <p>14 A. I am not an engineer.</p> <p>15 Q. And is it correct to say that you have no</p> <p>16 background in nuclear construction?</p> <p>17 MR. CHALLY: Object to form.</p> <p>18 MR. WATKINS: Object to the form.</p> <p>19 THE WITNESS: I have not been trained in</p> <p>20 nuclear construction. I don't have a degree in</p> <p>21 construction nor engineering-related degree.</p> <p>22 BY MR. COX:</p> <p>23 Q. Did you have any role in overseeing</p> <p>24 nuclear construction prior to construction of the</p> <p>25 project?</p>

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<p>1 A. No. The company was not building any 2 nuclear plants up until that -- until the project 3 started.</p> <p>4 Q. Why did you leave the position of CEO of 5 SCANA and SCE&amp;G?</p> <p>6 MR. WATKINS: Object to the form. It's 7 been asked and answered.</p> <p>8 THE WITNESS: I chose to retire.</p> <p>9 BY MR. COX:</p> <p>10 Q. Why did you do that?</p> <p>11 A. I believed it was in the best interest of 12 the company in trying to resolve some of the issues 13 related to the nuclear plant abandonment.</p> <p>14 Q. Why did you believe that would be in the 15 best interest of the company?</p> <p>16 A. The company attorneys had engaged in a 17 number of settlement discussions.</p> <p>18 MR. WATKINS: And, Kevin, I'll caution you 19 now not to disclose the substance of any 20 discussions with attorneys in answering this 21 question.</p> <p>22 And if you need to take a break to discuss 23 the implications of the attorney-client 24 privilege here, we can do that.</p> <p>25 THE WITNESS: We may need to take a break.</p>	<p>1 that I believe the privilege covers in this 2 context not only specific communications that 3 Mr. Marsh might have had with lawyers, but 4 broader, the company effort to deal with the 5 dispute that was facing the company at this 6 time.</p> <p>7 MR. COX: And just to be clear, you had 8 the opportunity to discuss that with Mr. Marsh 9 just now off the record?</p> <p>10 MR. CHALLY: We discussed the scope of the 11 privilege and work product protection associated 12 with the question you asked, yes.</p> <p>13 MR. WATKINS: Would you mind reasking the 14 question or reading it back? Your preference.</p> <p>15 BY MR. COX:</p> <p>16 Q. So, Mr. Marsh, the question was: Why did 17 you believe it would be in the best interest of the 18 company for you to retire?</p> <p>19 MR. WATKINS: I'll give you the same 20 privilege restriction as before; but with that, 21 please go ahead and answer.</p> <p>22 THE WITNESS: Based on feedback I had 23 gotten from the company's attorneys on the 24 status of our efforts to resolve the abandonment 25 issues and my own personal situation, I felt it</p>
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<p>1 MR. CHALLY: Yeah.</p> <p>2 MR. COX: Okay. Off the record.</p> <p>3 VIDEOGRAPHER: The time is 9:40 a.m. and 4 we are off the record.</p> <p>5 (A recess transpired from 9:40 a.m. until 6 9:51 a.m.)</p> <p>7 VIDEOGRAPHER: The time is 9:51 a.m., and 8 we are back on record.</p> <p>9 BY MR. COX:</p> <p>10 Q. So before our break, Mr. Marsh, your 11 attorneys had asked for a recess to discuss an issue 12 of potential privilege.</p> <p>13 Can you go ahead and continue your answer?</p> <p>14 MR. CHALLY: I'll just add to the 15 instruction Mr. Marsh's personal attorney 16 advanced.</p> <p>17 We would instruct Mr. Marsh not to reveal 18 the substance of not only communications that he 19 had with company attorneys, but the company's 20 effort to deal with at the time of his departure 21 was a series of disputes related to the 22 abandonment. So we broke so that we could try 23 to articulate a response to the question.</p> <p>24 I believe Mr. Marsh is capable of doing 25 that, but I want to make clear on the record</p>	<p>1 would be in the company's best interest for me 2 to step aside and my personal interest to step 3 aside.</p> <p>4 BY MR. COX:</p> <p>5 Q. When you say "personal situation," what do 6 you mean by that?</p> <p>7 A. I mean I have to consider my personal 8 health and my family's health and the pressures that 9 we were under.</p> <p>10 This issue had been, you know, quite, 11 quite vocal in the paper for some time. And I'm 12 certainly committed to the company. I am also 13 committed to my family. And I just believed it was 14 in my best personal interest to step aside and 15 retire.</p> <p>16 Q. Was that a difficult time for you and your 17 family in the post abandonment time period in late 18 2017?</p> <p>19 MR. WATKINS: Objection to form.</p> <p>20 THE WITNESS: I saw it as difficult. The 21 company had made a difficult decision.</p> <p>22 Many people did not agree with it. Many 23 of those opinions were discussed in the paper on 24 many occasions, and I believed it was in my 25 personal interest, my best interest, to step</p>

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<p>1       aside and retire.</p> <p>2 BY MR. COX:</p> <p>3       Q. Did you personally feel that you could no</p> <p>4 longer effectively be the CEO of SCANA after the</p> <p>5 abandonment decision?</p> <p>6       MR. WATKINS: Objection to form.</p> <p>7       Mischaracterizes the testimony.</p> <p>8       THE WITNESS: Could you repeat the</p> <p>9 question again?</p> <p>10 BY MR. COX:</p> <p>11       Q. Did you personally feel that you could no</p> <p>12 longer effectively be the CEO of SCANA after the</p> <p>13 abandonment decision?</p> <p>14       MR. CHALLY: Object to form.</p> <p>15       MR. WATKINS: Objection to form.</p> <p>16       THE WITNESS: I believed I was capable of</p> <p>17 continuing as CEO.</p> <p>18 BY MR. COX:</p> <p>19       Q. Did any members of the board tell you that</p> <p>20 you needed to resign for the best interest of the</p> <p>21 company?</p> <p>22       A. They did not.</p> <p>23       Q. Did anyone other than attorneys for SCANA</p> <p>24 tell you that it would be in the best interest for</p> <p>25 you to resign as CEO of the company?</p>	<p>1       MR. COX: Go off the record.</p> <p>2       VIDEOGRAPHER: Time is 9:57 a.m., and we</p> <p>3 are off the record.</p> <p>4       (Brief off-record discussion at 9:57 a.m.)</p> <p>5       MR. COX: Okay. Let's go back. Go back</p> <p>6 on the record.</p> <p>7       VIDEOGRAPHER: Okay. Time is 9:57 a.m.,</p> <p>8 and we are back on record.</p> <p>9       MR. COX: I just want to place on the</p> <p>10 record that I object to Mr. Watkins's request or</p> <p>11 instruction to take a break with the witness</p> <p>12 based on attorney-client privilege.</p> <p>13       I don't believe that the question that was</p> <p>14 asked could possibly elicit privileged</p> <p>15 information.</p> <p>16       MR. WATKINS: And it certainly could. It</p> <p>17 certainly could.</p> <p>18       You excluded communications with a lawyer,</p> <p>19 but a lawyer certainly can give advice and it</p> <p>20 can be communicated through a nonlawyer. There</p> <p>21 can be company legal strategy as communicated</p> <p>22 through a nonlawyer.</p> <p>23       I've given the witness a limiting</p> <p>24 instruction, and he's indicated the desire to</p> <p>25 confer with me to discuss the scope of privilege</p>
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<p>1       MR. CHALLY: Object to form.</p> <p>2       MR. WATKINS: I'm going to object to the</p> <p>3 form of the question and also counsel you that</p> <p>4 to the extent that your answer reveals any</p> <p>5 communications with counsel or work product or</p> <p>6 litigation strategy of the company during that</p> <p>7 time, not to divulge that type of information.</p> <p>8       And again, if you need to break to discuss</p> <p>9 that, we can.</p> <p>10       THE WITNESS: We may need to break. I</p> <p>11 apologize, but it's complicated.</p> <p>12       MR. COX: I don't believe a break is</p> <p>13 called for on that question.</p> <p>14       MR. CHALLY: What's the question again?</p> <p>15       MR. COX: Would you read back the</p> <p>16 question, please?</p> <p>17       (Whereupon the Court Reporter read the</p> <p>18 previous question: Did anyone other than</p> <p>19 attorneys for SCANA tell you that it would</p> <p>20 be in the best interest for you to resign</p> <p>21 as CEO of the company?)</p> <p>22       MR. WATKINS: Yeah. And I stand by that,</p> <p>23 and I do. So we'll take a break.</p> <p>24       MR. COX: I object.</p> <p>25       MR. WATKINS: Okay.</p>	<p>1       issues here, if any. And that's what we're</p> <p>2 going to do.</p> <p>3       MR. SOLOMONS: And just for the record,</p> <p>4 Plaintiffs also further object that such a</p> <p>5 conference may not be provided for in the South</p> <p>6 Carolina Rules of Civil Procedure. So we want</p> <p>7 to put that on the record.</p> <p>8       MR. CHALLY: Hold on. So is it your</p> <p>9 position that a conference to discuss whether</p> <p>10 there is -- whether the question requires</p> <p>11 divulging privileged information is not provided</p> <p>12 for under South Carolina Rules of Civil</p> <p>13 Procedure?</p> <p>14       MR. SOLOMONS: I'm not sure it is. I</p> <p>15 think it -- so I would -- I would want to flesh</p> <p>16 out the purpose and the exact question and the</p> <p>17 exact area that the privilege is being asserted</p> <p>18 over rather than -- than what we're doing, which</p> <p>19 is breaking, going back and having</p> <p>20 off-the-record conversations, and coming back to</p> <p>21 discuss questions. So that's --</p> <p>22       MR. CHALLY: Okay. Just to make -- I'm</p> <p>23 not sure I understand, but -- so is it -- is it</p> <p>24 you don't believe that the discussions being had</p> <p>25 relate to whether to assert a privilege, or is</p>

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<p>1 it that you don't believe a break can be taken</p> <p>2 to determine whether a privilege assertion needs</p> <p>3 to be made?</p> <p>4 MR. SOLOMONS: I'm unclear as to where</p> <p>5 that line is between those two, Jon, and I want</p> <p>6 it on the record.</p> <p>7 MS. MOODY: Was your question -- your</p> <p>8 question was: Any attorneys outside -- any</p> <p>9 attorneys from SCANA? You specifically said</p> <p>10 "SCANA" in that.</p> <p>11 So he could have had conversation with</p> <p>12 another attorney that was not for SCANA, so that</p> <p>13 is reason to take a break to find out.</p> <p>14 MR. WATKINS: And I'll make the point that</p> <p>15 my understanding is that under Rule 30(j)(5),</p> <p>16 that counsel and witness are permitted to engage</p> <p>17 in private off-the-record conferences during</p> <p>18 depositions for the purpose of deciding whether</p> <p>19 to assert a privilege or to make an objection or</p> <p>20 to move for a protective order. And that's</p> <p>21 precisely what we're going to do.</p> <p>22 MR. COX: Off the record.</p> <p>23 VIDEOGRAPHER: The time is 10:00 a.m., and</p> <p>24 we are off the record.</p> <p>25 (A recess transpired from 10:00 a.m. until</p>	<p>1 down. But they did not ask me to step down.</p> <p>2 BY MR. COX:</p> <p>3 Q. What was the name of that PR firm that</p> <p>4 SCANA retained?</p> <p>5 A. I don't -- I don't recall the name of the</p> <p>6 firm.</p> <p>7 Q. Did you meet with that firm?</p> <p>8 A. I did meet with them.</p> <p>9 Q. How many times?</p> <p>10 A. I don't -- I don't recall specific number</p> <p>11 of times.</p> <p>12 Q. Was it more than once?</p> <p>13 A. Yes, it was more than once.</p> <p>14 Q. Where did you meet with them?</p> <p>15 A. At the company's offices.</p> <p>16 Q. Do you remember the name of anyone from</p> <p>17 that PR firm that you met with?</p> <p>18 A. I'm sorry, but I can't recall a specific</p> <p>19 name.</p> <p>20 Q. Was it more than one person?</p> <p>21 A. What I recall is there was one person that</p> <p>22 was assigned to the engagement. They may have had</p> <p>23 others that worked with them from time to time, but I</p> <p>24 just recall one person being -- I guess that would be</p> <p>25 called the "point person" with us.</p>
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<p>1 10:06 a.m.)</p> <p>2 VIDEOGRAPHER: The time is 10:06 a.m., and</p> <p>3 we are back on record.</p> <p>4 BY MR. COX:</p> <p>5 Q. Mr. Marsh, before the break, I had asked</p> <p>6 you a question. Do you need it repeated?</p> <p>7 A. I would like for you to repeat it, yes.</p> <p>8 MR. COX: Could you repeat that last</p> <p>9 question?</p> <p>10 (Whereupon the Court Reporter read the</p> <p>11 previous question: Did anyone other than</p> <p>12 attorneys for SCANA tell you that it would</p> <p>13 be in the best interest for you to resign</p> <p>14 as CEO of the company?)</p> <p>15 MR. WATKINS: Objection to the form.</p> <p>16 THE WITNESS: First, I want to clarify</p> <p>17 that no attorneys from SCANA asked me to step</p> <p>18 down. That was a decision I made on my own.</p> <p>19 The company had engaged a PR firm to help</p> <p>20 in working through the process and issues</p> <p>21 related to abandonment. As part of their</p> <p>22 discussions, they shared with us situations that</p> <p>23 had occurred in other large corporations across</p> <p>24 the nation and that in many of those</p> <p>25 circumstances, the CEOs had been asked to step</p>	<p>1 Q. Was that point person a male or a female?</p> <p>2 A. I believe it was a female.</p> <p>3 Q. Do you know where that person was based</p> <p>4 out of?</p> <p>5 A. I don't recall.</p> <p>6 Q. Did they present any presentations to you</p> <p>7 in providing you information on this subject?</p> <p>8 MR. WATKINS: Objection to form.</p> <p>9 MR. CHALLY: Same.</p> <p>10 THE WITNESS: I don't -- I don't recall</p> <p>11 them making presentations to me specifically. I</p> <p>12 know they made presentations to the company,</p> <p>13 representatives of the company.</p> <p>14 BY MR. COX:</p> <p>15 Q. And you were there for that presentation,</p> <p>16 correct?</p> <p>17 MR. WATKINS: Objection to form.</p> <p>18 THE WITNESS: I don't recall if I was</p> <p>19 there when the presentations were made or if the</p> <p>20 information of the presentation was shared with</p> <p>21 me by a member of the company, employee of the</p> <p>22 company.</p> <p>23 BY MR. COX:</p> <p>24 Q. What was the format of this presentation?</p> <p>25 MR. WATKINS: Objection to form.</p>

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<p>1 THE WITNESS: I don't recall the specific</p> <p>2 format.</p> <p>3 BY MR. COX:</p> <p>4 Q. Do you know if you ever received any</p> <p>5 PowerPoint slides from this company?</p> <p>6 A. I just don't recall.</p> <p>7 Q. What examples did the company use, the PR</p> <p>8 company use, as far as examples of other companies</p> <p>9 that had encountered a situation like SCANA's?</p> <p>10 MR. WATKINS: Objection to form.</p> <p>11 MR. CHALLY: Objection.</p> <p>12 THE WITNESS: I don't recall specific</p> <p>13 companies. I don't -- I mean, nobody had a</p> <p>14 situation exactly like SCANA's situations. Ours</p> <p>15 was different. I think all those are pretty</p> <p>16 much stand-alone situations.</p> <p>17 BY MR. COX:</p> <p>18 Q. So is it your testimony that no individual</p> <p>19 asked you to resign as CEO of SCANA?</p> <p>20 A. No one asked me to resign from SCANA.</p> <p>21 Q. Did you feel you had the option to</p> <p>22 continue as CEO of SCANA?</p> <p>23 A. I did.</p> <p>24 Q. And it's your testimony that you made the</p> <p>25 decision to retire; is that correct?</p>	<p>1 other than you and Mr. Hagood?</p> <p>2 A. I don't recall everyone who was in there.</p> <p>3 I believe Jimmy Addison was in the room, and Keller</p> <p>4 Kissam may have been in the room. I just don't -- I</p> <p>5 don't recall specifically everybody that was in</p> <p>6 there.</p> <p>7 Q. Was Stephen Byrne present?</p> <p>8 A. I don't believe so.</p> <p>9 Q. Do you remember approximately when this</p> <p>10 meeting occurred?</p> <p>11 A. I -- it was right around Halloween,</p> <p>12 October 31st. I don't remember if it was the day</p> <p>13 before Halloween or Halloween, but it was about that</p> <p>14 time frame.</p> <p>15 Q. 2017, correct?</p> <p>16 A. 2017, that's correct.</p> <p>17 Q. Did you schedule the meeting, or did</p> <p>18 Mr. Hagood?</p> <p>19 MR. WATKINS: Objection to form.</p> <p>20 THE WITNESS: I don't recall how the</p> <p>21 meeting got scheduled. I mean, we were -- we</p> <p>22 were having a discussion.</p> <p>23 BY MR. COX:</p> <p>24 Q. Had you already decided to retire prior to</p> <p>25 that meeting occurring?</p>
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<p>1 A. That is correct.</p> <p>2 Q. How did you notify the company that you</p> <p>3 were resigning as CEO?</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 Mischaracterizes the testimony.</p> <p>6 THE WITNESS: Could you repeat the</p> <p>7 question?</p> <p>8 BY MR. COX:</p> <p>9 Q. Sure. Let me rephrase it.</p> <p>10 How did you notify the company that you</p> <p>11 were retiring as CEO?</p> <p>12 A. My memory is I communicated it to the lead</p> <p>13 director of the board of directors.</p> <p>14 Q. Who was that?</p> <p>15 A. Maybank Hagood.</p> <p>16 Q. Did you communicate it to him in writing</p> <p>17 or some other method?</p> <p>18 A. I recall it was verbal.</p> <p>19 Q. Where did that conversation occur?</p> <p>20 A. I believe it took place in my conference</p> <p>21 room.</p> <p>22 Q. How long did that meeting last?</p> <p>23 A. I don't recall the length of the meeting.</p> <p>24 My memory is it was less than an hour.</p> <p>25 Q. Was anyone else present for that meeting</p>	<p>1 A. It was something I had certainly</p> <p>2 contemplated based on events that occurred. But I</p> <p>3 did not -- I had not decided until we had the</p> <p>4 discussion in the meeting.</p> <p>5 Q. And can you describe the discussion that</p> <p>6 occurred at that meeting?</p> <p>7 A. I was receiving -- I had received updates</p> <p>8 from the company's attorneys on the status of matters</p> <p>9 related to --</p> <p>10 MR. WATKINS: And, Kevin, don't -- don't</p> <p>11 disclose the substance of any updates from any</p> <p>12 attorneys or the substance of any</p> <p>13 attorney-client communications here.</p> <p>14 It's fine to say that you talked -- you</p> <p>15 received a communication from an attorney, but</p> <p>16 not the substance. Do you understand the</p> <p>17 limiting instruction there?</p> <p>18 THE WITNESS: I think I do.</p> <p>19 MR. WATKINS: Okay.</p> <p>20 THE WITNESS: I had had discussions with</p> <p>21 the company's attorneys. I made the</p> <p>22 determination myself in the meeting, evaluating</p> <p>23 what I thought would be in the best interest of</p> <p>24 the company and also me personally. And that's</p> <p>25 when I decided to inform Mr. Hagood that it was</p>



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<p>1 my decision that I thought it was in the best</p> <p>2 interest of the company for me to retire.</p> <p>3 BY MR. COX:</p> <p>4 Q. Did anything occur at that meeting that</p> <p>5 led to your decision to retire?</p> <p>6 MR. CHALLY: Object to form.</p> <p>7 MR. WATKINS: Objection to the form of the</p> <p>8 question.</p> <p>9 THE WITNESS: I had conversations with the</p> <p>10 company's attorneys.</p> <p>11 BY MR. COX:</p> <p>12 Q. But I'm just talking about the meeting</p> <p>13 with Mr. Hagood that you had in your office. And my</p> <p>14 understanding is, from what you've said, is that at</p> <p>15 the time you scheduled that meeting, you weren't</p> <p>16 certain whether you were going to retire or not. You</p> <p>17 were considering it.</p> <p>18 And is it true that at that meeting, that</p> <p>19 is when you decided that you would, in fact, retire</p> <p>20 as CEO?</p> <p>21 A. I did decide in that meeting. Yes, I did.</p> <p>22 Q. What information did you receive at that</p> <p>23 meeting that led you to make the decision to retire?</p> <p>24 MR. WATKINS: And again, Kevin, don't</p> <p>25 disclose any information received from attorneys</p>	<p>1 BY MR. COX:</p> <p>2 Q. Did Mr. Hagood express any views on</p> <p>3 whether you should retire or not?</p> <p>4 MR. WATKINS: Objection.</p> <p>5 THE WITNESS: No, he did not.</p> <p>6 BY MR. COX:</p> <p>7 Q. What was the purpose of the meeting?</p> <p>8 A. I recall the purpose was to just update</p> <p>9 Mr. Maybank -- I mean, Mr. Hagood on the status of</p> <p>10 our -- our situation regarding abandonment.</p> <p>11 Q. So the purpose of the meeting wasn't to</p> <p>12 decide your future with the company?</p> <p>13 A. No, it was not.</p> <p>14 Q. How did -- how did it happen that the</p> <p>15 meeting was a factor in your decision to retire?</p> <p>16 MR. WATKINS: Objection to form.</p> <p>17 THE WITNESS: You know, my decision -- I</p> <p>18 reached the decision in the meeting just based</p> <p>19 on the overall discussion of the status of where</p> <p>20 we were on the abandonment issue and what would</p> <p>21 be in the best interest of the company.</p> <p>22 BY MR. COX:</p> <p>23 Q. What was the status of the abandonment</p> <p>24 issue?</p> <p>25 A. Well, we had -- we had announced the</p>
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<p>1 or the substance of attorney-client</p> <p>2 communication.</p> <p>3 There was no attorney in that meeting, was</p> <p>4 there?</p> <p>5 THE WITNESS: I don't recall specifically</p> <p>6 if the attorney was in the meeting.</p> <p>7 MR. WATKINS: Okay. In any event, don't</p> <p>8 disclose the substance of any attorney-client</p> <p>9 communications.</p> <p>10 THE WITNESS: I was -- I was having a</p> <p>11 discussion with Mr. Hagood in general about the</p> <p>12 status of the abandonment issue.</p> <p>13 BY MR. COX:</p> <p>14 Q. What was his input to you on that during</p> <p>15 the meeting?</p> <p>16 MR. WATKINS: Objection to form.</p> <p>17 THE WITNESS: I don't remember any</p> <p>18 specific comments. I just remember there being</p> <p>19 a discussion about the abandonment issue.</p> <p>20 BY MR. COX:</p> <p>21 Q. What did Mr. Hagood say at that meeting?</p> <p>22 MR. WATKINS: Objection.</p> <p>23 THE WITNESS: I don't recall specifically</p> <p>24 what Mr. Hagood said.</p> <p>25</p>	<p>1 abandonment of the project, I believe it was the</p> <p>2 latter part of July of 2017. Since that time, we had</p> <p>3 given testimony before the House and the Senate</p> <p>4 special committees to look into the abandonment</p> <p>5 issue.</p> <p>6 There had been a number of discussions</p> <p>7 internally of, you know, how we might be able to</p> <p>8 resolve the issue. I know our -- our legal counsel</p> <p>9 had had discussions --</p> <p>10 MR. WATKINS: Kevin --</p> <p>11 THE WITNESS: -- regarding that issue.</p> <p>12 MR. WATKINS: And again, don't disclose</p> <p>13 the substance of any communication with legal</p> <p>14 counsel.</p> <p>15 THE WITNESS: Okay. I had discussions</p> <p>16 with legal counsel throughout that period, and</p> <p>17 based on updating Mr. Hagood in that meeting, I</p> <p>18 determined it was in the company's best interest</p> <p>19 for me to step aside. And I made that decision</p> <p>20 by myself.</p> <p>21 BY MR. COX:</p> <p>22 Q. What was the name of the attorneys who you</p> <p>23 had consulted with during this time period?</p> <p>24 MR. WATKINS: Objection to form.</p> <p>25 MR. CHALLY: Same objection.</p>

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<p>1 THE WITNESS: I mean, I -- the company's 2 internal regulatory attorney was Chad Burgess. 3 BY MR. COX: 4 Q. Is he the only attorney you discussed -- 5 or is he the only attorney you were consulting with 6 during this time period? 7 MR. WATKINS: Same objection. 8 MR. CHALLY: Same. 9 THE WITNESS: I mean, we have general 10 counsel who I talked to from time to time on a 11 regular basis. 12 Also, we have outside regulatory attorneys 13 that I would talk to from time to time about 14 company issues. So there were a number of 15 attorneys that I may have had conversations 16 with. 17 BY MR. COX: 18 Q. I'm talking just about your -- the option 19 of you retiring. 20 A. Oh, I didn't talk -- 21 MR. WATKINS: Objection. 22 THE WITNESS: -- to any attorneys about my 23 decision to retire. No one advised me. No one 24 encouraged me. That was a decision I reached on 25 my own with no legal counsel input whatsoever.</p>	<p>1 MR. WATKINS: Objection to form. 2 THE WITNESS: I don't recall all the 3 specific discussion, and I don't -- I don't 4 believe I can point to one particular incident 5 or discussion item that led to my decision. 6 It was just a collective personal 7 evaluation of where we were on the issue and 8 what would be in the company's best interest 9 going forward. 10 BY MR. COX: 11 Q. Did -- and Mr. Hagood did not express any 12 opinion as to whether he thought you should retire or 13 not, correct? 14 A. He did not. 15 Q. Did Mr. Addison express any opinion on 16 whether you should retire or not? 17 A. He did not. 18 Q. Do you have any knowledge of how 19 Mr. Addison was selected to become the CEO of SCANA? 20 A. I told Mr. Hagood that if I were to 21 retire, that it would be my recommendation that 22 Mr. Addison succeed me. 23 Q. Is that a statement you made to Mr. Hagood 24 at that meeting that occurred around Halloween 2017? 25 A. Yes.</p>
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<p>1 BY MR. COX: 2 Q. Other -- and the only input you received 3 on that was from this PR advisory firm, is that -- 4 A. I didn't get input from them. They were 5 describing situations that had occurred at large 6 corporations around the country, and in some of those 7 cases, the CEO had decided to step aside. 8 Q. The company -- strike that. 9 SCANA retained this PR firm to provide 10 information to SCANA; is that correct? 11 MR. WATKINS: Objection to form. 12 MR. CHALLY: Object to form. 13 THE WITNESS: I don't recall who actually 14 engaged the PR firm. I didn't engage them. 15 They were there to work with our corporate 16 communications group in understanding how best 17 to communicate this issue. 18 BY MR. COX: 19 Q. Do you know if SCANA retained the PR firm? 20 A. Someone within SCANA or SCE&amp;G retained the 21 firm. 22 Q. This meeting that you had with Mr. Hagood 23 around Halloween 2017, is there anything that 24 occurred in that meeting where you realized, "Okay, I 25 need to retire"?</p>	<p>1 Q. What did Mr. Hagood say in response to 2 that statement? 3 MR. WATKINS: Objection to form. 4 MR. CHALLY: Object. 5 THE WITNESS: I don't recall what he said 6 specifically, if he said anything. 7 BY MR. COX: 8 Q. Were you involved in the selection of 9 Mr. Addison as CEO other than that recommendation 10 that you made? 11 A. No. 12 Q. Did you receive any compensation in 13 exchange for retiring as CEO of SCANA? 14 A. I did not. 15 Q. Do you have any current consulting 16 agreements with SCE&amp;G or SCANA? 17 A. I do not. 18 Q. Did you have any consulting agreements 19 with SCE&amp;G or SCANA that have now expired? 20 A. No. 21 Q. Mr. Marsh, you received over \$5 million in 22 total compensation in 2014, didn't you? 23 MR. WATKINS: Objection to the form of the 24 question. 25 THE WITNESS: I don't recall the exact</p>

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<p>1 amount of my compensation in 2014.</p> <p>2 BY MR. COX:</p> <p>3 Q. Would it refresh your recollection to</p> <p>4 review SCANA's proxy statement?</p> <p>5 A. That information is provided in a proxy</p> <p>6 statement, yes.</p> <p>7 MR. COX: I'm handing you a proxy</p> <p>8 statement dated March 24th, 2017. I tabbed a</p> <p>9 page entitled "Summary Compensation Table."</p> <p>10 MR. WATKINS: Are you going to mark this</p> <p>11 as an exhibit?</p> <p>12 MR. COX: I don't think so.</p> <p>13 MR. WATKINS: Okay. Do you have another</p> <p>14 copy of the document?</p> <p>15 MR. COX: I don't.</p> <p>16 MS. MOODY: What page of the document --</p> <p>17 THE WITNESS: 42.</p> <p>18 MR. COX: I marked page 42 as a page for</p> <p>19 the witness to review.</p> <p>20 THE WITNESS: (Reviewing).</p> <p>21 Subject to check, this does appear to be a</p> <p>22 copy of SCANA's proxy statement filed on</p> <p>23 March 24th, 2017.</p> <p>24 BY MR. COX:</p> <p>25 Q. And in your experience, does the company's</p>	<p>1 A. That's correct.</p> <p>2 Q. And would you agree that as defined under</p> <p>3 SEC rules, your compensation in 2016 was over</p> <p>4 \$6 million?</p> <p>5 A. Yes. Those numbers appear in the</p> <p>6 compensation table.</p> <p>7 Q. Thank you. Mr. Marsh, during the time of</p> <p>8 construction on the project, you received bonus</p> <p>9 payments tied to progress on the construction of the</p> <p>10 project, correct?</p> <p>11 MR. CHALLY: Object to form.</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: I received incentive</p> <p>14 payments during the period we were constructing</p> <p>15 the project. Those weren't all specifically</p> <p>16 related to project-related activities.</p> <p>17 BY MR. COX:</p> <p>18 Q. Is it true that some of the incentive</p> <p>19 payments were specifically related to project-related</p> <p>20 activities?</p> <p>21 A. A portion of it would be.</p> <p>22 Q. Were those incentive payments reported in</p> <p>23 any format by SCANA?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 THE WITNESS: I mean, the compensation of</p>
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<p>1 proxy statement reflect the compensation that you</p> <p>2 would have received as CEO of the company?</p> <p>3 A. It does reflect that compensation as</p> <p>4 required to be reported under the reporting</p> <p>5 guidelines, yes, it does.</p> <p>6 Q. Is it correct that in calendar year 2014,</p> <p>7 you received over \$5 million in total compensation?</p> <p>8 MR. WATKINS: Objection to form.</p> <p>9 THE WITNESS: 2014? There's a -- the</p> <p>10 number that appears in the table totals about</p> <p>11 5.7 million, but there are components of that</p> <p>12 that are not cash compensation to me.</p> <p>13 It also includes changes in pension value</p> <p>14 and other matters. It would not be what I would</p> <p>15 consider cash compensation to me.</p> <p>16 BY MR. COX:</p> <p>17 Q. You would agree, though, that for purposes</p> <p>18 of the total compensation for reporting on the proxy</p> <p>19 statement, your compensation that year was over</p> <p>20 \$5 million?</p> <p>21 A. As defined by the SEC rules, that's</p> <p>22 correct.</p> <p>23 Q. And you would also agree that as defined</p> <p>24 under SEC rules, your compensation in 2015 was also</p> <p>25 over \$5 million, correct?</p>	<p>1 the officers, including mine, would have been</p> <p>2 included in the proxy statement that was filed</p> <p>3 with the SEC.</p> <p>4 BY MR. COX:</p> <p>5 Q. Is there any document that would show what</p> <p>6 compensation you received as an incentive payment</p> <p>7 that was tied to progress in construction on the</p> <p>8 project?</p> <p>9 MR. CHALLY: Object to form.</p> <p>10 MR. WATKINS: Objection to form.</p> <p>11 THE WITNESS: I don't -- I don't believe,</p> <p>12 as it's reported in the proxy, it delineates any</p> <p>13 specific amounts. I believe it does describe</p> <p>14 the makeup of the goals of the individual</p> <p>15 officers, which would describe -- I believe it</p> <p>16 would describe the makeup of those incentive</p> <p>17 goals.</p> <p>18 BY MR. COX:</p> <p>19 Q. How were incentive payments structured?</p> <p>20 MR. CHALLY: Object to form.</p> <p>21 MR. WATKINS: Objection to the form of the</p> <p>22 question.</p> <p>23 THE WITNESS: Well, each -- each officer</p> <p>24 of the company had a salary and incentive</p> <p>25 compensation level that was set by the board.</p>

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<p>1 The board engaged an independent consultant to</p> <p>2 advise them on what were normal levels of pay</p> <p>3 and typical levels of incentive opportunities</p> <p>4 based on responsibilities assigned different</p> <p>5 positions.</p> <p>6 So in that regard, the goal, as described</p> <p>7 to me by the board, was to make sure that our</p> <p>8 compensation was consistent with jobs that would</p> <p>9 have similar responsibilities in similar</p> <p>10 companies with the given responsibilities across</p> <p>11 the country.</p> <p>12 I think they had that information provided</p> <p>13 independently by the consultant. The</p> <p>14 consultant, based on my knowledge, also advised</p> <p>15 the compensation committee of the board</p> <p>16 appropriate ways to separate that into</p> <p>17 short-term and long-term compensation and the</p> <p>18 process by which we could set targets or goals</p> <p>19 which would determine if you would achieve those</p> <p>20 targets or goals, what level of compensation or</p> <p>21 what level of incentive, you know, pay you may</p> <p>22 be entitled to.</p> <p>23 So that was -- that was determined at the</p> <p>24 beginning of each year before incentive awards</p> <p>25 were made known to any of the officers,</p>	<p>1 officers.</p> <p>2 Q. What goals were set for you that related</p> <p>3 to progress in construction on the project?</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 THE WITNESS: I don't recall any goals</p> <p>6 being set tied to specific progress on the</p> <p>7 construction. I remember my goal being set as</p> <p>8 overall, you know, providing oversight of the</p> <p>9 construction activities.</p> <p>10 BY MR. COX:</p> <p>11 Q. What was the standard for determining</p> <p>12 whether you achieved that goal?</p> <p>13 MR. WATKINS: Objection to form.</p> <p>14 THE WITNESS: That was not a determination</p> <p>15 that I made. The board, based on its evaluation</p> <p>16 of my performance during the year related to</p> <p>17 overall nuclear construction activities, would</p> <p>18 make its determination.</p> <p>19 BY MR. COX:</p> <p>20 Q. Do you remember if there was a</p> <p>21 quantifiable standard that was established for your</p> <p>22 goal with respect to oversight of construction on the</p> <p>23 project?</p> <p>24 A. I don't recall a specific number of any</p> <p>25 sort being included in that goal. I can't speak for</p>
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<p>1 including myself.</p> <p>2 BY MR. COX:</p> <p>3 Q. Were your targets for incentive</p> <p>4 compensation spelled out in writing?</p> <p>5 MR. WATKINS: Objection to form.</p> <p>6 THE WITNESS: No. We -- a presentation</p> <p>7 was made by the human resources committee -- I</p> <p>8 mean, by the human resources department to the</p> <p>9 compensation committee on specific goals that</p> <p>10 were recommended for consideration by the</p> <p>11 committee for each -- for each senior officer.</p> <p>12 BY MR. COX:</p> <p>13 Q. And would the committee then approve the</p> <p>14 goals that it determined to put into effect for each</p> <p>15 officer?</p> <p>16 A. The committee would make the final</p> <p>17 decision on which goals would be applicable to each</p> <p>18 officer, and then that information would go to the</p> <p>19 full board of directors for approval.</p> <p>20 Q. And after it was approved by the full</p> <p>21 board, would that be put in writing, the goals that</p> <p>22 were set out for incentive compensation for each</p> <p>23 officer?</p> <p>24 A. Yes. The goals would be approved, and the</p> <p>25 individual goals would be communicated to the senior</p>	<p>1 the board and what they may have considered or what</p> <p>2 they might have discussed in determining whether or</p> <p>3 not they believed I had achieved the goal that was</p> <p>4 put before me.</p> <p>5 Q. Was one of your goals to have a filing</p> <p>6 with the Commission regarding revised rates?</p> <p>7 MR. WATKINS: Objection to form.</p> <p>8 MR. CHALLY: Same objection.</p> <p>9 THE WITNESS: I don't recall that being a</p> <p>10 specific goal.</p> <p>11 BY MR. COX:</p> <p>12 Q. Do you recall any of your goals for</p> <p>13 incentive payments being tied to milestones for</p> <p>14 construction of the project?</p> <p>15 MR. WATKINS: Objection to form.</p> <p>16 THE WITNESS: I don't recall any of my</p> <p>17 goals being tied to specific milestones.</p> <p>18 BY MR. COX:</p> <p>19 Q. So to your recollection, your goal for</p> <p>20 incentive payments related to the project was just to</p> <p>21 appropriately oversee the project?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 MR. CHALLY: Same objection.</p> <p>24 THE WITNESS: It was to provide oversight</p> <p>25 to members of my team that had specific</p>

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<p>1 responsibilities regarding project activities</p> <p>2 and what that would entail and the board's</p> <p>3 determination of whether or not they believed I</p> <p>4 had done that appropriately to earn the</p> <p>5 incentive payment.</p> <p>6 BY MR. COX:</p> <p>7 Q. And did you earn that incentive payment</p> <p>8 every year?</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 MR. CHALLY: Same.</p> <p>11 THE WITNESS: I don't -- I don't recall</p> <p>12 each individual year, but I did earn -- I did</p> <p>13 earn that incentive payment, yes.</p> <p>14 BY MR. COX:</p> <p>15 Q. Part of your compensation as CEO was</p> <p>16 allocated to the capital cost of the project, wasn't</p> <p>17 it?</p> <p>18 MR. SOLOMONS: Objection to form.</p> <p>19 MR. CHALLY: Object to form.</p> <p>20 THE WITNESS: I don't know. I did not do</p> <p>21 the accounting or the cost allocations of the</p> <p>22 incentive pay, so I don't know if any of my</p> <p>23 bonus was assigned to the project.</p> <p>24 BY MR. COX:</p> <p>25 Q. Did you have to allocate the time that you</p>	<p>1 the end of the year.</p> <p>2 BY MR. COX:</p> <p>3 Q. Okay. So -- fair point. Let's talk just</p> <p>4 about your salary.</p> <p>5 A. Okay.</p> <p>6 Q. Is it correct to say that the company</p> <p>7 would allocate a portion of your salary, based on the</p> <p>8 time that you spent working on the project, would</p> <p>9 allocate a portion of your salary to the capital</p> <p>10 costs of the project?</p> <p>11 MR. CHALLY: Object to form.</p> <p>12 THE WITNESS: Yeah. I don't want to get</p> <p>13 hung up on terms, but I'm an accountant. An</p> <p>14 allocation means something in accounting</p> <p>15 different from, I think, what you're saying.</p> <p>16 My time was assigned directly to the</p> <p>17 project based on the time sheet I provided if I</p> <p>18 spent time on the project. If I spent time at</p> <p>19 PSNC Energy in North Carolina and I put time</p> <p>20 down for that, part of my base salary would be</p> <p>21 assigned based on that time. So it was a direct</p> <p>22 assignment.</p> <p>23 As an accountant, I don't consider that an</p> <p>24 allocation. It was directly assigned to where I</p> <p>25 was doing the work.</p>
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<p>1 spent working on the project versus the time you</p> <p>2 spent working on nonproject-related activities?</p> <p>3 MR. CHALLY: Object to form.</p> <p>4 MR. WATKINS: Same objection.</p> <p>5 THE WITNESS: And I completed a time sheet</p> <p>6 for every two-week work period, and I would put</p> <p>7 the time on that time sheet based on which</p> <p>8 activities I was involved in and which company</p> <p>9 they were related to.</p> <p>10 BY MR. COX:</p> <p>11 Q. And you don't know, sitting here now, if</p> <p>12 the time that you spent working on project-related</p> <p>13 activities, that your compensation for that time</p> <p>14 period was allocated to the costs of the project?</p> <p>15 MR. WATKINS: Objection to form.</p> <p>16 MR. CHALLY: Same.</p> <p>17 THE WITNESS: Okay. I think I'm -- I</p> <p>18 understood you were asking about incentive pay.</p> <p>19 The time -- the allocation of my salary, based</p> <p>20 on the time sheet that I would complete every</p> <p>21 two weeks, that cost would be allocated to the</p> <p>22 project if I had worked on the project during</p> <p>23 that time period.</p> <p>24 But that -- I don't know that that was the</p> <p>25 basis for the allocation of the incentive pay at</p>	<p>1 BY MR. COX:</p> <p>2 Q. So is it correct to say that a portion of</p> <p>3 your salary was assigned to the capital costs of the</p> <p>4 project?</p> <p>5 MR. CHALLY: Object to form.</p> <p>6 MR. WATKINS: Objection to form.</p> <p>7 THE WITNESS: If I had done work on the</p> <p>8 project and I put time on my time sheet</p> <p>9 indicating I had worked on the project, a</p> <p>10 pro rata portion of my salary related to that</p> <p>11 time, I believe, was charged to the project.</p> <p>12 That's my understanding.</p> <p>13 BY MR. COX:</p> <p>14 Q. And you did assign time on your time</p> <p>15 sheets to the project during your time as CEO,</p> <p>16 correct?</p> <p>17 A. Yes, I did.</p> <p>18 Q. As CEO of SCANA, you signed a</p> <p>19 certification that your company's SEC filings did not</p> <p>20 include any untrue statements of material fact,</p> <p>21 didn't you?</p> <p>22 A. I did --</p> <p>23 MR. CHALLY: Objection.</p> <p>24 THE WITNESS: -- based on the process as</p> <p>25 we went through to prepare those statements, and</p>

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<p>1 that was a required certification which I did</p> <p>2 sign.</p> <p>3 BY MR. COX:</p> <p>4 Q. And isn't it true that as CEO, you also</p> <p>5 certified that your company's SEC filings did not</p> <p>6 omit any material facts necessary to make the</p> <p>7 statements made not misleading?</p> <p>8 MR. WATKINS: Objection to the form of the</p> <p>9 question.</p> <p>10 THE WITNESS: Yeah. I don't -- I don't</p> <p>11 recall the specific language in the</p> <p>12 certification, but I did sign the certification</p> <p>13 each quarter and at the end of the year when</p> <p>14 those statements were filed.</p> <p>15 BY MR. COX:</p> <p>16 Q. So you signed those certifications for</p> <p>17 SCANA since 2011, correct?</p> <p>18 MR. WATKINS: Objection to form.</p> <p>19 THE WITNESS: As CEO, yes.</p> <p>20 BY MR. COX:</p> <p>21 Q. You signed those during an earlier time</p> <p>22 period as CFO, correct?</p> <p>23 MR. WATKINS: Objection to form.</p> <p>24 THE WITNESS: I would have signed those as</p> <p>25 the CFO during the period I was CFO.</p>	<p>1 MR. CHALLY: Object to form.</p> <p>2 MR. WATKINS: Objection to the form of the</p> <p>3 question.</p> <p>4 THE WITNESS: I believe my testimony was</p> <p>5 truthful.</p> <p>6 BY MR. COX:</p> <p>7 Q. Do you believe that your testimony in</p> <p>8 those proceedings was not misleading?</p> <p>9 MR. CHALLY: Object to form.</p> <p>10 MR. WATKINS: Same.</p> <p>11 THE WITNESS: In my opinion, I don't</p> <p>12 believe it was misleading.</p> <p>13 MR. WATKINS: And I want to make clear</p> <p>14 that my objection was interposed before that</p> <p>15 last question.</p> <p>16 BY MR. COX:</p> <p>17 Q. It is correct that SCE&amp;G selected the</p> <p>18 AP1000 technology for the project, correct?</p> <p>19 A. SCE&amp;G did select that technology. That's</p> <p>20 correct.</p> <p>21 Q. And is it true that SCE&amp;G agreed with</p> <p>22 Westinghouse's proposal to use a consortium for</p> <p>23 construction of the project?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 THE WITNESS: That was the way that it was</p>
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<p>1 BY MR. COX:</p> <p>2 Q. As an accountant, you are familiar with</p> <p>3 the principle that omissions of material fact can</p> <p>4 result in a statement being misleading, aren't you?</p> <p>5 MR. WATKINS: Objection to the form of the</p> <p>6 question.</p> <p>7 MR. CHALLY: Object to form.</p> <p>8 THE WITNESS: I'm generally aware of, you</p> <p>9 know, issues regarding what's included in</p> <p>10 financial statements, yes.</p> <p>11 BY MR. COX:</p> <p>12 Q. Do you believe that your certification of</p> <p>13 SCANA's SCE&amp;G statements were correct?</p> <p>14 MR. CHALLY: Object to form.</p> <p>15 MR. WATKINS: Objection to the form of the</p> <p>16 question.</p> <p>17 THE WITNESS: I believe what I certified</p> <p>18 was correct, yes.</p> <p>19 BY MR. COX:</p> <p>20 Q. You testified -- you stated earlier that</p> <p>21 you testified before the Commission on several</p> <p>22 occasions, correct?</p> <p>23 A. I did.</p> <p>24 Q. Was your testimony in those proceedings</p> <p>25 truthful?</p>	<p>1 presented to us if we wanted to move forward</p> <p>2 with the project, and we did sign an agreement</p> <p>3 with the consortium.</p> <p>4 BY MR. COX:</p> <p>5 Q. So you ultimately, or your company, SCE&amp;G,</p> <p>6 ultimately agreed to Westinghouse's proposal that a</p> <p>7 consortium be used to construct the project; is that</p> <p>8 correct?</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 MR. CHALLY: Same.</p> <p>11 THE WITNESS: I mean, we -- SCE&amp;G entered</p> <p>12 into a contract with the consortium to construct</p> <p>13 two AP1000s.</p> <p>14 BY MR. COX:</p> <p>15 Q. Did SCE&amp;G favor the use of a consortium to</p> <p>16 construct the project?</p> <p>17 MR. CHALLY: Object to form.</p> <p>18 MR. WATKINS: Objection to form.</p> <p>19 THE WITNESS: I -- you know, I'm not -- I</p> <p>20 was not responsible for constructing plants.</p> <p>21 Steve Byrne and the nuclear team were</p> <p>22 responsible for evaluating, you know, the -- the</p> <p>23 contract and how that was put together.</p> <p>24 As I said earlier, at the end of the day,</p> <p>25 SCE&amp;G did sign a contract with a consortium. At</p>

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<p>1 the time, it was Westinghouse and Shaw to build</p> <p>2 two AP1000s.</p> <p>3 BY MR. COX:</p> <p>4 Q. Were you involved in the negotiation of</p> <p>5 that contract?</p> <p>6 A. I was involved at the -- at the</p> <p>7 president's level because I was president of SCE&amp;G at</p> <p>8 the time. I was not involved in the detailed</p> <p>9 negotiations of the project. That was primarily</p> <p>10 members of the nuclear team.</p> <p>11 Q. Is there any part of the negotiations that</p> <p>12 you were more involved in than others?</p> <p>13 MR. WATKINS: Objection to form.</p> <p>14 THE WITNESS: I was not directly involved</p> <p>15 in the negotiations on the particulars in the</p> <p>16 contract.</p> <p>17 BY MR. COX:</p> <p>18 Q. How would you describe your role in the</p> <p>19 negotiations?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 THE WITNESS: I see my role as the</p> <p>22 president to understand that there were</p> <p>23 negotiations going on, understanding that we had</p> <p>24 a team in place to do those negotiations, and</p> <p>25 that we were trying to reach an agreement that</p>	<p>1 Ron Clary were the leads in doing that</p> <p>2 negotiation.</p> <p>3 BY MR. COX:</p> <p>4 Q. Did you make any decisions on SCE&amp;G's</p> <p>5 behalf during the course of the negotiations?</p> <p>6 MR. CHALLY: Object to form.</p> <p>7 MR. WATKINS: Objection to form.</p> <p>8 THE WITNESS: You know, not -- I was not</p> <p>9 on the negotiating team, so I was not making</p> <p>10 decisions regarding negotiations.</p> <p>11 The team would present to me, and also</p> <p>12 Bill Timmerman, who was the CEO at the time, you</p> <p>13 know, where we stood on negotiations, but I was</p> <p>14 not making decisions.</p> <p>15 BY MR. COX:</p> <p>16 Q. What was your recollection of the</p> <p>17 company's position at that time with respect to</p> <p>18 whether a consortium should be used to construct the</p> <p>19 project?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 MR. CHALLY: Same.</p> <p>22 THE WITNESS: I don't recall anything</p> <p>23 relative to the position we may have had. That</p> <p>24 was the form that was presented to us and that</p> <p>25 was looked at during the negotiations.</p>
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<p>1 would support the building of two AP1000s or a</p> <p>2 nuclear plant at that time.</p> <p>3 And I -- I was informed by our team of</p> <p>4 what was going on in negotiations, you know,</p> <p>5 some of the issues they needed to resolve in</p> <p>6 negotiations, and issues that came up, but I was</p> <p>7 not involved in the detail negotiation of the</p> <p>8 contract.</p> <p>9 BY MR. COX:</p> <p>10 Q. Who was -- who were the members of your</p> <p>11 negotiating team?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: Well, first, it wasn't my</p> <p>14 negotiating team. It was a group within SCE&amp;G.</p> <p>15 They were SCE&amp;G employees.</p> <p>16 Ron Clary, who was our vice president of</p> <p>17 new nuclear development at the time, was</p> <p>18 probably the lead negotiator. Steve Byrne,</p> <p>19 given his responsibilities for all nuclear</p> <p>20 activities, was involved in negotiations.</p> <p>21 There were others on the team. I mean,</p> <p>22 this was a long, complex, detailed contract, so</p> <p>23 I -- I can't say all of the people that were</p> <p>24 involved in negotiating each section of the</p> <p>25 contract, but I would say that Steve Byrne and</p>	<p>1 BY MR. COX:</p> <p>2 Q. Was there any opinions expressed by any</p> <p>3 members of the negotiating team that a consortium</p> <p>4 would not be the best way to pursue construction of</p> <p>5 the project?</p> <p>6 MR. WATKINS: Objection to form.</p> <p>7 MR. CHALLY: Object to form.</p> <p>8 THE WITNESS: I don't recall any</p> <p>9 disclosure or issues raised to that issue.</p> <p>10 BY MR. COX:</p> <p>11 Q. What was SCE&amp;G's understanding of the</p> <p>12 completeness of the design of the project during the</p> <p>13 2008 EPC negotiations?</p> <p>14 MR. CHALLY: Object to form.</p> <p>15 MR. WATKINS: Same objection.</p> <p>16 THE WITNESS: I can't respond. I don't</p> <p>17 have knowledge of the detail design. That's</p> <p>18 something that would have been handled by Steve</p> <p>19 Byrne.</p> <p>20 I do recall that Westinghouse represented</p> <p>21 to us that they had an approved design by the</p> <p>22 NRC. I just remember that -- those terms coming</p> <p>23 up.</p> <p>24 BY MR. COX:</p> <p>25 Q. And other than that, you don't have any</p>

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<p>1 more recollection of SCE&amp;G's -- or your understanding 2 of the completeness of the design? 3 MR. WATKINS: Objection to form. 4 THE WITNESS: I'm not an engineer. I 5 don't know how to define "completeness of the 6 design" in terms of responding to your question. 7 BY MR. COX: 8 Q. Was there a point in time where you later 9 formed the opinion that the design of the AP1000 was 10 not as complete as you had initially believed? 11 A. I recall Steve Byrne, I believe, providing 12 testimony that it was not unusual for power plant 13 construction, including nuclear power plant 14 construction, that all of the detail design 15 associated with the construction project was not -- 16 typically not completed when the project was started; 17 that it was completed as you went through the 18 construction of the project. I do recall some 19 testimony that Steve gave on that behalf -- 20 Q. Is it -- 21 A. -- on that issue. 22 Q. -- your recollection -- I'm sorry. 23 A. I'm sorry. I'm through. 24 Q. Is it your recollection that Mr. Byrne's 25 testimony was that he understood that to be the case?</p>	<p>1 that being the case. I don't -- 2 BY MR. COX: 3 Q. At the time of the 2008 EPC negotiations, 4 did SCE&amp;G consider other technologies to increase 5 base load capacity other than the AP1000? 6 A. We did consider other technologies. We 7 considered coal, natural gas, and renewables. 8 Q. How did SCE&amp;G compare the cost and benefit 9 of those technologies? 10 MR. CHALLY: Object to form. 11 MR. WATKINS: Objection to form. 12 THE WITNESS: In very general terms, coal 13 was not seen to be a feasible option at that 14 point. We had significant coal generation on 15 our system at that time. There were very 16 stringent environmental regulations around 17 emissions from coal-fired facilities. It was 18 clear in our minds, from SCE&amp;G's perspective, 19 that it was likely that environmental 20 restrictions -- you know, rulings that have 21 negative impact on coal would continue to be 22 imposed on coal-fired capacity. So that was not 23 an option that we felt like was feasible for our 24 company. 25 We were trying to define something that</p>
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<p>1 MR. WATKINS: Objection to form. 2 THE WITNESS: I don't recall the specifics 3 around his testimony. 4 BY MR. COX: 5 Q. To your recollection, was SCE&amp;G, at any 6 point in time, surprised at the lack of completeness 7 of the design of the AP1000? 8 MR. CHALLY: Object to form. 9 MR. WATKINS: Same objection. 10 THE WITNESS: I can't speak to the design 11 issues. That would have to be to Steve Byrne. 12 I don't have knowledge of all that. I'm not an 13 expert in design, construction design, and don't 14 feel like I can respond to that question. 15 BY MR. COX: 16 Q. And I understand that. 17 So I guess the way I would kind of sum up 18 this issue is: You weren't in a position to ever 19 form an opinion that the design of the project -- or 20 I'm sorry, the design of the reactor turned out to be 21 more or less complete than originally expected? 22 MR. CHALLY: Object to form. 23 MR. WATKINS: Same objection to the form 24 of the question. 25 THE WITNESS: I don't -- I don't recall</p>	<p>1 was clean, nonemitting, base load generation, 2 and coal did not fit that -- did not fit that 3 picture. 4 Natural gas, while it does not emit as 5 much as coal, it does still emit pollutants to 6 the air that are a concern from an environmental 7 perspective. 8 We were very concerned that if we added 9 all of our base load from a natural gas 10 perspective, we would be way too heavy in our 11 fossil fuel generation capacity, which would be 12 a negative for us in terms of producing clean 13 air under new regulations that might be imposed 14 on the company that we believed were imminent at 15 the time. 16 We looked at renewables. The team -- 17 there was a team. A team was put in place -- I 18 didn't do the evaluation. A team was put in 19 place to evaluate the renewable option. 20 Renewables, we believed, had a place on 21 the system. They were still relatively new from 22 a technological perspective in terms of how they 23 could be added to the system. 24 We needed base load generation. 25 Renewables don't have -- you're not able to</p>



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<p>1 dispatch that when you need it. If it's -- if</p> <p>2 it's solar, when the sun is shining, you have</p> <p>3 solar energy. If it's nighttime or very cold in</p> <p>4 the morning, solar energy is not available to</p> <p>5 you to meet the need on the system.</p> <p>6 So we believed it would be cost</p> <p>7 prohibitive to, you know, build enough solar,</p> <p>8 and then it wouldn't be dispatchable and</p> <p>9 wouldn't meet base load needs. We needed base</p> <p>10 load generation. That generation, if it's used,</p> <p>11 is available 60 to 70 percent of the time.</p> <p>12 So an analysis prepared by the team doing</p> <p>13 the evaluation is to the impacts of natural gas</p> <p>14 versus nuclear. And based on that evaluation,</p> <p>15 the team concluded that the nuclear would be the</p> <p>16 cheapest option in the long term and provide the</p> <p>17 greatest benefits in nonemitting energy for the</p> <p>18 company.</p> <p>19 BY MR. COX:</p> <p>20 Q. Who was on that team?</p> <p>21 MR. WATKINS: Objection to form.</p> <p>22 THE WITNESS: I don't recall all the</p> <p>23 members of that team.</p> <p>24 BY MR. COX:</p> <p>25 Q. Do you recall who the experts were, if</p>	<p>1 THE WITNESS: My memory is that Joe led a</p> <p>2 team that did update an analysis for some of the</p> <p>3 filings we went back to, one of the Base Load</p> <p>4 Review Act. I believe he updated it in 2012,</p> <p>5 2015, and 2016. That's my memory.</p> <p>6 BY MR. COX:</p> <p>7 Q. Are you aware of any other comparative</p> <p>8 analysis -- analyses done by SCE&amp;G other than those</p> <p>9 comparisons done by Joe Lynch?</p> <p>10 MR. CHALLY: Object to form.</p> <p>11 THE WITNESS: That's what I recall. I</p> <p>12 don't recall any others.</p> <p>13 BY MR. COX:</p> <p>14 Q. You testified in the Commission docket</p> <p>15 where SCE&amp;G sought approval for construction of the</p> <p>16 project, correct?</p> <p>17 A. I did.</p> <p>18 Q. You testified -- you promised that SCE&amp;G</p> <p>19 would keep the Commission informed of the</p> <p>20 construction process and the price of the project,</p> <p>21 correct?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: If you've got a copy of that</p> <p>24 testimony, I'd like to see a copy of that to</p> <p>25 refresh my memory.</p>
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<p>1 any, that SCE&amp;G retained for that analysis?</p> <p>2 A. Joe Lynch -- Dr. Joe Lynch, who was a</p> <p>3 SCE&amp;G -- or may have been a SCANA employee -- led the</p> <p>4 analysis. I don't know if he engaged others to help</p> <p>5 him in that analysis or not.</p> <p>6 Q. During what time period was Mr. Lynch a</p> <p>7 SCANA employee?</p> <p>8 MR. CHALLY: Object to form.</p> <p>9 THE WITNESS: I don't know specifically</p> <p>10 when he joined the company. I remember Joe</p> <p>11 being there when I was there, but I don't</p> <p>12 recall -- I didn't work with Joe when I was an</p> <p>13 accountant, so I don't -- but I recall when I</p> <p>14 was president of SCE&amp;G, Joe was an employee of</p> <p>15 the company. So I can tell you from at least</p> <p>16 1996 on, he was there.</p> <p>17 BY MR. COX:</p> <p>18 Q. He was still an employee when you left the</p> <p>19 company?</p> <p>20 A. Yes, he was.</p> <p>21 Q. Did SCE&amp;G ever update that comparative</p> <p>22 analysis of nuclear technology versus those other</p> <p>23 types of technologies that you mentioned after</p> <p>24 construction on the project began?</p> <p>25 MR. CHALLY: Object to form.</p>	<p>1 MR. COX: Sure.</p> <p>2 MR. WATKINS: Jim, when you're at a good</p> <p>3 breaking point, I could use a restroom break.</p> <p>4 Not right now, but when you're at a good,</p> <p>5 logical breaking point.</p> <p>6 MR. COX: Off the record.</p> <p>7 VIDEOGRAPHER: The time is 10:57 a.m.</p> <p>8 We're off the record.</p> <p>9 (A recess transpired from 10:57 a.m. until</p> <p>10 11:12 a.m.)</p> <p>11 VIDEOGRAPHER: The time is 11:12 a.m., and</p> <p>12 we are back on record.</p> <p>13 (Exhibit 1 was marked for identification.)</p> <p>14 BY MR. COX:</p> <p>15 Q. Mr. Marsh, we have had marked and in front</p> <p>16 of you a document labeled Exhibit 1. Is this a copy</p> <p>17 of the testimony that you provided to the Commission</p> <p>18 in the docket in which SCE&amp;G requested approval of</p> <p>19 the project?</p> <p>20 A. It does appear to be my testimony.</p> <p>21 Q. And you understood that you were under</p> <p>22 oath when you provided this testimony, correct?</p> <p>23 A. I do.</p> <p>24 Q. If you could turn to page 211 of</p> <p>25 Exhibit 1, the numbers are on the top right-hand</p>

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<p>1 corner of the page.</p> <p>2 A. Okay.</p> <p>3 MR. WATKINS: Do you have another copy of</p> <p>4 this by any chance?</p> <p>5 MR. CHALLY: Here you go.</p> <p>6 MR. WATKINS: Thanks.</p> <p>7 BY MR. COX:</p> <p>8 Q. On that page, at lines 21 to 24, can you</p> <p>9 read what your answer to that question was?</p> <p>10 A. Yes.</p> <p>11 "ANSWER: Well, our promise is we will</p> <p>12 follow the rules of the Commission and the base load</p> <p>13 review process, keep the Commission informed of the</p> <p>14 construction process and what the price may be."</p> <p>15 Q. And, Mr. Marsh, that was a promise you</p> <p>16 gave to the Commission; is that correct?</p> <p>17 MR. WATKINS: Objection to form.</p> <p>18 THE WITNESS: That was my testimony.</p> <p>19 BY MR. COX:</p> <p>20 Q. Mr. Marsh, was it your understanding that</p> <p>21 SCE&amp;G was required to keep the Commission apprised of</p> <p>22 the estimated cost to complete construction of the</p> <p>23 project?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 MR. WATKINS: Objection to the form of the</p>	<p>1 followed by the company to complete the units -- or</p> <p>2 followed by Westinghouse and its consortium partner</p> <p>3 to complete the units.</p> <p>4 Q. And with respect to costs, that obligation</p> <p>5 that you believed the company had to update the</p> <p>6 estimated costs if they were to increase, is it your</p> <p>7 understanding that that was the -- that that figure</p> <p>8 was the estimated cost to complete construction?</p> <p>9 MR. WATKINS: I'll object to the form of</p> <p>10 the question, first.</p> <p>11 And second, Mr. Marsh, to the extent it</p> <p>12 implicates any -- this question implicates any</p> <p>13 communication with counsel, don't divulge the</p> <p>14 substance of any advice from counsel with</p> <p>15 respect to the company's obligations.</p> <p>16 THE WITNESS: Okay. It --</p> <p>17 BY MR. COX:</p> <p>18 Q. Let me just follow up on that because I</p> <p>19 don't want to know what your understanding is right</p> <p>20 now. I want to know what your understanding was at</p> <p>21 the time that you submitted this testimony or made</p> <p>22 this testimony to the Commission.</p> <p>23 A. Right.</p> <p>24 MR. WATKINS: And I'll clarify, my</p> <p>25 statement encompasses not only advice from your</p>
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<p>1 question.</p> <p>2 THE WITNESS: My understanding under the</p> <p>3 Base Load Review Act was we presented the</p> <p>4 Commission with our projected schedule and the</p> <p>5 estimated cost associated with completing the</p> <p>6 work under that schedule, which was then</p> <p>7 approved by the Commission.</p> <p>8 If we believed the cost would exceed that</p> <p>9 or we had information that would lead us to</p> <p>10 believe that the cost would exceed that, we were</p> <p>11 required to come back and update that cost with</p> <p>12 the Commission in a separate filing -- or if the</p> <p>13 schedule were to change.</p> <p>14 We had to update cost and schedule, if it</p> <p>15 were not included -- if those numbers were</p> <p>16 outside of the filing that we had. I believe on</p> <p>17 the -- the schedule side, we had an 18-month</p> <p>18 cushion for each milestone associated with the</p> <p>19 project.</p> <p>20 BY MR. COX:</p> <p>21 Q. And when you refer to "schedule," you're</p> <p>22 referring to the schedule to construct the units; is</p> <p>23 that correct?</p> <p>24 A. That would have been the -- it would have</p> <p>25 been the current schedule or the one that was being</p>	<p>1 counsel now, like me, but also any advice from</p> <p>2 counsel back at the time in connection with</p> <p>3 your -- your work and your testimony at the time</p> <p>4 this Exhibit 1 testimony was given.</p> <p>5 THE WITNESS: I mean, at the time I gave</p> <p>6 this testimony, it was -- it was my</p> <p>7 understanding that if your schedule were to</p> <p>8 change beyond 18 months -- well, at the time I</p> <p>9 gave this testimony, we didn't have the 18-month</p> <p>10 contingency because that's what was in the order</p> <p>11 based this testimony.</p> <p>12 So at the time, if the schedule had</p> <p>13 changed from what we had presented -- I believe</p> <p>14 we had offered up a 24-month cushion. That's</p> <p>15 what we testified to -- or if the cost were to</p> <p>16 change from what you included in the capital</p> <p>17 cost schedules, that we would come -- we would</p> <p>18 come back to the Commission and update the</p> <p>19 capital cost schedules.</p> <p>20 BY MR. COX:</p> <p>21 Q. Mr. Marsh, if you could turn to page 197</p> <p>22 of Exhibit 1. If you look at the sentence that</p> <p>23 begins on line 9 and ends on line 13, could you read</p> <p>24 that sentence?</p> <p>25 A. It says: "We are putting in place an</p>

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<p>1 extensive and experienced group of internal 2 construction management and oversight personnel who 3 will monitor all aspects of the construction and 4 licensing process as it moves forward." 5 Q. Was that a true statement when you made it 6 to the Commission? 7 MR. WATKINS: Objection to the form of the 8 question. 9 THE WITNESS: Yeah. It's true with 10 respect to the company was planning to put in 11 place is what I described here. I didn't put it 12 in place. We had -- that was done by Steve 13 Byrne and the nuclear team. 14 BY MR. COX: 15 Q. Do you know who the members of the 16 extensive and experienced group of internal 17 construction management and oversight personnel were? 18 MR. WATKINS: Objection to form. 19 THE WITNESS: I certainly can't recall all 20 of the names. It was a significant number of 21 people. 22 BY MR. COX: 23 Q. How many? 24 A. It -- the group grew over time. I don't 25 know what it was when we actually started the</p>	<p>1 Is it fair to say that you did not vet the 2 members of this group that you're referring to in 3 this sentence for their experience? 4 MR. CHALLY: Object to form. 5 MR. WATKINS: Objection to form. 6 THE WITNESS: I personally did not -- was 7 not engaged in hiring or evaluating the 8 experience of the people that were on the 9 project. 10 BY MR. COX: 11 Q. So is it correct to say that other senior 12 members of your company, including Mr. Byrne, told 13 you that they were going to put in a team of 14 extensive and experienced personnel, and that's why 15 you testified to this statement? 16 MR. WATKINS: Objection to form. 17 MR. CHALLY: Same. 18 THE WITNESS: I don't recall Mr. Byrne's 19 exact words and specific conversation, but it 20 was -- it was my understanding that Mr. Byrne 21 and the senior nuclear team would hire 22 experienced personnel to participate in the 23 project. 24 BY MR. COX: 25 Q. And you don't recall who made that</p>
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<p>1 project. I believe by the time we finished or we 2 made a determination to abandon the project, we were 3 close to 600. 4 Q. How did you know they were experienced? 5 A. I relied on -- 6 MR. WATKINS: Objection to form. 7 THE WITNESS: I didn't know they were 8 experienced. I was relying on Steve Byrne and 9 the senior nuclear team to engage experienced 10 personnel. 11 BY MR. COX: 12 Q. So Mr. Byrne told you that the group of 13 personnel who were going to monitor the project were 14 experienced, correct? 15 MR. CHALLY: Object to form. 16 THE WITNESS: I don't recall that he made 17 that exact statement to me, but it was -- it was 18 clearly an understanding with Mr. Byrne that we 19 would engage people who were competent in 20 performing their activities at the nuclear plant 21 as they would any other area of responsibility 22 of the company. 23 BY MR. COX: 24 Q. And I want to focus specifically on 25 experience, not competence.</p>	<p>1 representation to you? 2 MR. WATKINS: Objection to form. 3 THE WITNESS: I don't recall specifically, 4 no. 5 BY MR. COX: 6 Q. The EPC contract with the consortium 7 permitted SCE&amp;G to use an owners' engineer on the 8 project, correct? 9 MR. CHALLY: Object to form. 10 MR. WATKINS: Same objection. 11 THE WITNESS: I don't recall all of those 12 terms, but I believe there was an owners' 13 engineer position that was available for the 14 company. 15 BY MR. COX: 16 Q. SCE&amp;G never utilized an owners' engineer 17 on the project, correct? 18 A. To my knowledge, we did not fill that 19 position. 20 Q. Why is that? 21 A. As Mr. Byrne described to me, he felt like 22 we had competent personnel on the project. It was 23 not an issue that we discussed at length. That 24 certainly wasn't one we discussed at the beginning of 25 the project. He believed, in his opinion, that we</p>

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<p>1 had qualified personnel and that was not a position 2 that needed to be filled.</p> <p>3 Q. Did you ever revisit that issue with 4 Mr. Byrne after construction on the project began?</p> <p>5 A. We -- we've had a conversation about that 6 after the project began. We did have a conversation 7 about it.</p> <p>8 Q. And describe that conversation.</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 THE WITNESS: I can't remember the details 11 of the exact -- exact conversation, but I 12 believe it was -- it was at the time -- what I 13 recall, it was at the time we were negotiating 14 an amendment to the contract in 2015, in the 15 September-October time frame. That's what I 16 recall.</p> <p>17 BY MR. COX:</p> <p>18 Q. And what was the nature of the 19 conversation about the issue of an owners' engineer?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 THE WITNESS: What I recall is in our 22 discussions with -- with Westinghouse -- because 23 we were negotiating with Westinghouse at that 24 time to amend the contract -- that we wanted to 25 make sure that that position was -- we weren't</p>	<p>1 BY MR. COX:</p> <p>2 Q. And did you do that?</p> <p>3 A. I did.</p> <p>4 Q. And what was Mr. Byrne's response?</p> <p>5 MR. WATKINS: Objection to form.</p> <p>6 THE WITNESS: I -- what I recall is 7 Mr. Byrne did not feel we needed to fill that 8 position at the time.</p> <p>9 BY MR. COX:</p> <p>10 Q. Did you go back to Mr. Carter about that 11 issue?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: I don't recall exactly how I 14 got back to Mr. Carter. What I recall is I 15 informed him that we would leave that option 16 open; that's something that we would leave as an 17 option for consideration down the road.</p> <p>18 BY MR. COX:</p> <p>19 Q. Did he express any dissatisfaction to you 20 about your position on that issue?</p> <p>21 MR. CHALLY: Object to form.</p> <p>22 THE WITNESS: I can't -- I can't speak for 23 what Lonnie was thinking. I know he did express 24 to me he wanted us to consider it. And that's 25 what gave rise to the evaluation.</p>
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<p>1 going to change that section of the contract in 2 case we -- we decided to do that. Santee Cooper 3 had expressed an interest to make sure we kept 4 that position available.</p> <p>5 BY MR. COX:</p> <p>6 Q. And what was Mr. Byrne's position on that?</p> <p>7 A. He didn't disagree that it's something we 8 needed to leave as an opportunity but did not believe 9 we needed to fill it at the time.</p> <p>10 Q. Was there any point in time where you told 11 Mr. Byrne that you felt the question of whether an 12 owners' engineer needed to be engaged should be 13 reassessed?</p> <p>14 A. I don't recall a specific conversation of 15 that nature.</p> <p>16 Q. Did you ever have a conversation with 17 Lonnie Carter about utilizing an owners' engineer on 18 the project?</p> <p>19 A. Lonnie had raised the question to me.</p> <p>20 Q. And how did you respond to that?</p> <p>21 A. I told Lonnie --</p> <p>22 MR. CHALLY: Object to form.</p> <p>23 THE WITNESS: -- that I would return -- I 24 would share that concern with Steve Byrne. 25</p>	<p>1 BY MR. COX:</p> <p>2 Q. How many times did he express that 3 interest in considering it to you?</p> <p>4 A. I don't recall a specific number of times.</p> <p>5 Q. Was it more than once?</p> <p>6 A. It may -- may have or may not. I just 7 don't -- I just don't recall.</p> <p>8 Q. That conversation that you do recall with 9 Mr. Carter about the owners' engineer issue where you 10 went back to Mr. Byrne to discuss, what time period 11 did that communication occur?</p> <p>12 MR. WATKINS: Objection to the form of the 13 question.</p> <p>14 THE WITNESS: I don't -- I don't recall 15 the exact time frame. I -- my memory is it was 16 during that time frame we were negotiating the 17 amendment to the EPC contract with Westinghouse, 18 which would have been in that September -- 19 September-October time frame of 19 -- excuse me, 20 of 2015.</p> <p>21 BY MR. COX:</p> <p>22 Q. Did you feel that 2015 amendment took away 23 any need for SCE&amp;G to retain an owners' engineer?</p> <p>24 MR. WATKINS: Objection to form.</p> <p>25 THE WITNESS: From my perspective, based</p>

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<p>1 on what Steve and others at the nuclear plant</p> <p>2 had shared with me, bringing on Fluor as the</p> <p>3 main subcontractor to Westinghouse, it was</p> <p>4 assuming the primary contractor duties, was a</p> <p>5 welcome addition to the -- to the project.</p> <p>6 We all believed that that was a positive.</p> <p>7 We -- both organizations had experience with</p> <p>8 Fluor and believed that they would -- they would</p> <p>9 do a good role.</p> <p>10 So from my perspective, it was an issue</p> <p>11 that, you know, with Duke -- with Fluor coming</p> <p>12 on board, we needed to watch, see how they</p> <p>13 performed, and if they -- if they performed</p> <p>14 well, that may -- that may have eliminated any</p> <p>15 consideration for the special project</p> <p>16 engineer -- owners' engineer.</p> <p>17 BY MR. COX:</p> <p>18 Q. Was there ever a time where after Fluor</p> <p>19 came on board that you reassessed the question of</p> <p>20 whether an owners' engineer was needed?</p> <p>21 A. I don't remember doing that after they</p> <p>22 came on board. It may have been done. I don't</p> <p>23 remember being involved in that process.</p> <p>24 Q. If you turn to page 175 of Exhibit 1.</p> <p>25 A. Okay.</p>	<p>1 question.</p> <p>2 THE WITNESS: Yeah. Based on what Steve</p> <p>3 Byrne provided me, we -- the project was</p> <p>4 advanced. We had -- we had not gotten -- we had</p> <p>5 not applied for -- I don't remember if we had</p> <p>6 applied for the license at that point or not.</p> <p>7 We had not gotten the license approved by the</p> <p>8 NRC, but we were in the process of doing that.</p> <p>9 I can't speak to the specific steps</p> <p>10 involved, but I believe what I testified to here</p> <p>11 was my knowledge based on what had been reported</p> <p>12 to me.</p> <p>13 BY MR. COX:</p> <p>14 Q. Sitting here now today, do you regret the</p> <p>15 decision not to retain an owners' engineer on the</p> <p>16 project?</p> <p>17 MR. CHALLY: Object to form.</p> <p>18 MR. WATKINS: Same objection.</p> <p>19 MR. COX: What's the basis of that</p> <p>20 objection?</p> <p>21 MR. WATKINS: I think it's vague and</p> <p>22 ambiguous.</p> <p>23 MR. COX: What's the basis for yours?</p> <p>24 MR. CHALLY: Roughly the same. You're</p> <p>25 also not clear as to what time.</p>
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<p>1 Q. If you turn to line 9 and 10, is it</p> <p>2 correct to say that you believe that SCE&amp;G had</p> <p>3 mitigated price and schedule risks by selecting a</p> <p>4 nuclear technology that was well-advanced in the NRC</p> <p>5 licensing process?</p> <p>6 MR. WATKINS: Object to the form of the</p> <p>7 question.</p> <p>8 THE WITNESS: I mean, my -- my testimony</p> <p>9 was SCE&amp;G has mitigated these price and schedule</p> <p>10 risks by selecting a nuclear technology that is</p> <p>11 well advanced in the NRC licensing process.</p> <p>12 BY MR. COX:</p> <p>13 Q. And you believed that to be true at the</p> <p>14 time, correct?</p> <p>15 A. I did.</p> <p>16 MR. WATKINS: Objection to form.</p> <p>17 THE WITNESS: I did based on information</p> <p>18 that was provided to me by the nuclear team that</p> <p>19 did the evaluation of the nuclear generation</p> <p>20 project.</p> <p>21 BY MR. COX:</p> <p>22 Q. And sitting here now today, do you believe</p> <p>23 that SCE&amp;G selected a nuclear technology that was</p> <p>24 well-advanced in the NRC licensing process?</p> <p>25 MR. WATKINS: Objection to the form of the</p>	<p>1 MR. COX: Okay.</p> <p>2 Go ahead.</p> <p>3 MR. WATKINS: Are you able to get the date</p> <p>4 of when -- this testimony, Exhibit 1?</p> <p>5 MR. COX: I don't know if it's on here.</p> <p>6 We can certainly identify it at some point. My</p> <p>7 question didn't relate to Exhibit 1.</p> <p>8 MR. WATKINS: Okay.</p> <p>9 BY MR. COX:</p> <p>10 Q. Do you need the question repeated, Mr.</p> <p>11 Marsh?</p> <p>12 A. If you don't mind, yeah.</p> <p>13 Q. Sitting here today, do you regret the</p> <p>14 decision not to retain an owners' engineer on the</p> <p>15 project?</p> <p>16 MR. WATKINS: Same objection.</p> <p>17 MR. CHALLY: Same.</p> <p>18 THE WITNESS: That would require me to</p> <p>19 speculate, and I don't -- I don't recall all the</p> <p>20 facts and circumstances that we considered at</p> <p>21 the time. I don't know that I can -- can</p> <p>22 formulate a response to that.</p> <p>23 BY MR. COX:</p> <p>24 Q. Do you mean you'd have to speculate on</p> <p>25 whether an owners' engineer could have addressed the</p>

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<p>1 issues in construction of the project better than 2 actually occurred?</p> <p>3 A. I just don't recall all the issues and 4 responsibilities of the owners' engineer and how that 5 may or may not have impacted the project.</p> <p>6 I mean, I'm -- I'm -- we're sitting here 7 today in 2018. These were decisions that were made 8 back in -- in 2009. I respect our decision. I stand 9 by our decision then.</p> <p>10 I just -- I don't feel like I'm in a 11 position to speculate about what we would or would 12 not have done.</p> <p>13 Q. Well, let me just maybe approach it more 14 globally just so you perhaps understand a little 15 better the question.</p> <p>16 Is it correct that in 2008, SCE&amp;G 17 requested that the Commission approve an application 18 to construct and operate -- to construct and operate 19 the project?</p> <p>20 A. Yes.</p> <p>21 Q. And is it correct to say that SCE&amp;G failed 22 in its objective to construct and operate the 23 project?</p> <p>24 A. SCE&amp;G was not responsible for constructing 25 the project. That was the responsibility of</p>	<p>1 responsible for an oversight. I can't speak to 2 everything Steve Byrne and his team may have 3 done in an oversight role.</p> <p>4 BY MR. COX:</p> <p>5 Q. And I'm referring to the company, not you 6 individually --</p> <p>7 A. Yeah.</p> <p>8 Q. -- Mr. Marsh. SCE&amp;G's goal in applying to 9 the Commission was to -- was to have the project 10 completed and operating, correct?</p> <p>11 A. Yes, it was our goal.</p> <p>12 Q. And that goal was not achieved, correct?</p> <p>13 A. It was not achieved because Westinghouse 14 declared bankruptcy.</p> <p>15 Q. Okay. And I -- and is it fair to say that 16 that's the reason you believe the project was not 17 constructed?</p> <p>18 MR. WATKINS: Objection to form.</p> <p>19 THE WITNESS: I believe that's the primary 20 reason.</p> <p>21 BY MR. COX:</p> <p>22 Q. Are there any other reasons that you 23 believe the project was not constructed other than 24 Westinghouse's bankruptcy?</p> <p>25 A. Well, at the time the decision was made to</p>
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<p>1 Westinghouse and the consortium member under the EPC 2 contract.</p> <p>3 Q. You would agree that SCE&amp;G oversaw the 4 construction of the project, correct?</p> <p>5 MR. WATKINS: Objection to form.</p> <p>6 THE WITNESS: We provided -- I mean, we 7 served an oversight role, but we were not 8 responsible for day-to-day construction 9 activities.</p> <p>10 BY MR. COX:</p> <p>11 Q. Did SCE&amp;G have any responsibility to 12 improve the chances that the project would get 13 constructed?</p> <p>14 MR. CHALLY: Object to form.</p> <p>15 MR. WATKINS: Same objection.</p> <p>16 THE WITNESS: I don't know how to respond 17 to that question.</p> <p>18 BY MR. COX:</p> <p>19 Q. Can you describe what you believe SCE&amp;G's 20 oversight responsibilities were in construction of 21 the project?</p> <p>22 A. I can --</p> <p>23 MR. WATKINS: Objection to the form.</p> <p>24 THE WITNESS: I can only respond to what I 25 was responsible for. I believe I was</p>	<p>1 abandon construction, that was done after a 2 deliberate process of evaluating the most prudent 3 path forward. That was after Westinghouse had 4 declared bankruptcy.</p> <p>5 Our partner, Santee Cooper, decided that 6 they were going to withdraw from the project. 7 Without a partner in the project, we didn't believe 8 it was -- it was prudent to go forward because of the 9 cost impact to our customers to build two units or 10 even one unit on our own without a partner.</p> <p>11 Q. So is it your testimony that you believe 12 Santee Cooper's decision to withdraw from 13 construction was also a reason that the project was 14 not constructed?</p> <p>15 MR. WATKINS: Objection to form.</p> <p>16 THE WITNESS: I believe it's why -- it's 17 one of the reasons why we decided not to 18 continue with construction.</p> <p>19 I mean, the project was not completed at 20 the time we made the decision to abandon the 21 project, so it was a decision made not to 22 continue with construction. Construction could 23 have continued.</p> <p>24 BY MR. COX:</p> <p>25 Q. Would SCE&amp;G have continued constructing</p>

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<p>1 the project if Santee Cooper had not decided to 2 withdraw from the effort to construct the project? 3 MR. CHALLY: Object to form. 4 THE WITNESS: That was certainly the 5 evaluation we were -- we were going through. We 6 never completed the evaluation because Santee 7 Cooper decided to withdraw. 8 BY MR. COX: 9 Q. And that's really what I'm getting at. Is 10 it correct to say that SCE&amp;G never reached a 11 conclusion on whether it would have abandoned or not 12 with Santee Cooper as a partner? 13 MR. WATKINS: Objection to the form of the 14 question. 15 THE WITNESS: I'm not sure I'm following 16 your question. 17 BY MR. COX: 18 Q. Let me rephrase. 19 You don't know if SCE&amp;G would have 20 continued constructing the project if Santee Cooper 21 had not announced that it would no longer support 22 construction, correct? 23 MR. WATKINS: Objection to the form of the 24 question. It's vague and ambiguous. 25 THE WITNESS: I don't know if we would</p>	<p>1 driven by the bankruptcy of Westinghouse. Our 2 evaluation of the cost to complete the project 3 at the time, which we were not able to complete 4 the overall impact of that because Santee Cooper 5 decided to withdraw from the project. 6 And at that point, as I said earlier, we 7 believed the cost to complete the project was 8 not prudent for us to go forward. We could have 9 gone forward, but we didn't believe it was 10 prudent to go forward based on the impact on 11 customers. 12 BY MR. COX: 13 Q. Is it correct to say that there was 14 substantial delays in construction of modules during 15 the course of the project? 16 MR. WATKINS: Objection. 17 THE WITNESS: There were -- there were 18 delays in some of the submodule construction 19 that was the responsibility of the contractor 20 that we identified and disclosed very early in 21 the process and made efforts to have those 22 processes improved. 23 BY MR. COX: 24 Q. And is it correct to say that the 25 contractor continued to not perform, even with those</p>
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<p>1 have continued with construction because we 2 weren't able to complete the analysis under 3 those assumptions. 4 BY MR. COX: 5 Q. Are there any actions that your company, 6 SCE&amp;G, took in constructing the project that you 7 regret? 8 MR. WATKINS: Objection to the form of the 9 question. 10 MR. CHALLY: Same. 11 THE WITNESS: I don't -- I don't really 12 know how to answer that without -- without 13 speculating. 14 We made decisions that we believed were 15 appropriate at the times we made those 16 decisions, based on the information that was 17 available to us. We did that throughout the 18 project. 19 BY MR. COX: 20 Q. Are there any actions that SCE&amp;G took that 21 you feel contributed to the decision to abandon the 22 project? 23 MR. WATKINS: Objection to form. 24 THE WITNESS: No. As I said earlier, I 25 believe the decision to abandon the project was</p>	<p>1 efforts that your company made to try to get them to 2 improve? 3 MR. CHALLY: Object to form. 4 MR. WATKINS: Same objection. 5 THE WITNESS: I don't understand the 6 specificity of the question. 7 BY MR. COX: 8 Q. Is it correct to say that submodule 9 fabrication and delivery was a problem throughout the 10 life of the project? 11 MR. WATKINS: Objection to the form of the 12 question. 13 THE WITNESS: I don't think it's fair it 14 was an issue throughout the life of the project. 15 It was an issue early on, continued to be 16 an issue for a while, which we disclosed at the 17 Commission. I believe it was also included in 18 other filings we made, in our quarterly reports 19 that we were required to file with the Office of 20 Regulatory Staff on the status of the project. 21 That issue was widely known. It certainly 22 wasn't secretive. 23 And we made efforts and worked hard to 24 limit the cost associated with those, that 25 module production so customers wouldn't have to</p>

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<p>1 bear the cost of any inefficiencies or continued</p> <p>2 delays by the consortium in manufacturing those</p> <p>3 components.</p> <p>4 BY MR. COX:</p> <p>5 Q. And did that problem with submodule</p> <p>6 fabrication delivery get solved?</p> <p>7 MR. WATKINS: Objection to the form of the</p> <p>8 question.</p> <p>9 THE WITNESS: I can't answer specifically</p> <p>10 from a project perspective. I know there were</p> <p>11 actions that were taken by our team to encourage</p> <p>12 Shaw, CB&amp;I, and Westinghouse to take steps to</p> <p>13 improve the delivery of the submodules.</p> <p>14 Some of those were actually taken. They</p> <p>15 located some of the manufacturer of those</p> <p>16 components to other facilities other than just</p> <p>17 the original facility that was designed by Shaw</p> <p>18 to do that, and that did improve the delivery of</p> <p>19 the submodules.</p> <p>20 BY MR. COX:</p> <p>21 Q. Is it correct to say that submodule</p> <p>22 fabrication delivery was an issue that drove the</p> <p>23 critical path of the schedule of the project?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 MR. WATKINS: Same objection.</p>	<p>1 THE WITNESS: I just don't recall.</p> <p>2 BY MR. COX:</p> <p>3 Q. So it could have been after 2015?</p> <p>4 MR. WATKINS: Objection.</p> <p>5 THE WITNESS: It could have been before.</p> <p>6 It could have been after. I just don't have a</p> <p>7 clear memory.</p> <p>8 (Exhibit 2 was marked for identification.)</p> <p>9 BY MR. COX:</p> <p>10 Q. Mr. Marsh, I've handed -- or I've had</p> <p>11 handed to you a document labeled Exhibit 2. It's an</p> <p>12 e-mail from you to Paula Rowland and yourself dated</p> <p>13 June 4th, 2013, Bates-labeled SCANA_RP0034698.</p> <p>14 Who is Paula Rowland?</p> <p>15 MR. WATKINS: We'd like to take the</p> <p>16 opportunity --</p> <p>17 THE WITNESS: Give me a second to read</p> <p>18 through it.</p> <p>19 MR. WATKINS: Take an opportunity to take</p> <p>20 a break to review this document.</p> <p>21 MR. COX: Sure. Off the record.</p> <p>22 VIDEOGRAPHER: The time is 11:41 a.m., and</p> <p>23 we are off the record.</p> <p>24 (A recess transpired from 11:41 a.m. until</p> <p>25 11:48 a.m.)</p>
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<p>1 THE WITNESS: Yeah. I don't know -- I</p> <p>2 don't understand all the aspects of critical</p> <p>3 path. That's a scheduling project issue, and</p> <p>4 I -- I'm not qualified to address that.</p> <p>5 BY MR. COX:</p> <p>6 Q. Okay. What is your understanding of the</p> <p>7 critical path of a schedule?</p> <p>8 A. As I've been -- as it's been explained to</p> <p>9 me by Mr. Byrne, there are certain activities that</p> <p>10 need to be performed by certain dates in order to</p> <p>11 stay on your schedule. Some of those key items would</p> <p>12 be considered critical path items.</p> <p>13 But how that works in the overall</p> <p>14 schedule, I'm not sure.</p> <p>15 Q. When did Mr. Byrne explain this to you?</p> <p>16 A. I don't recall that discussion. I've</p> <p>17 heard that from -- from Mr. Byrne as he's explained</p> <p>18 it to me and explained it to the board of directors</p> <p>19 when he gave them updates.</p> <p>20 Q. How early in the project did Mr. Byrne</p> <p>21 explain critical path to you?</p> <p>22 A. I -- I don't recall the first time I heard</p> <p>23 it.</p> <p>24 Q. Was it before 2015?</p> <p>25 MR. WATKINS: Objection.</p>	<p>1 VIDEOGRAPHER: The time is 11:48, and</p> <p>2 we're back on record.</p> <p>3 BY MR. COX:</p> <p>4 Q. Mr. Marsh, have you had a chance to review</p> <p>5 Exhibit 2?</p> <p>6 A. I have.</p> <p>7 Q. Who is Paula Rowland?</p> <p>8 A. Paula Rowland was my executive assistant.</p> <p>9 Q. And is it correct that you were asking her</p> <p>10 to forward a message to the board of directors of</p> <p>11 SCANA?</p> <p>12 A. That is correct.</p> <p>13 Q. And is everything that you asked her to</p> <p>14 forward to the board of directors accurate?</p> <p>15 MR. WATKINS: Objection to the form of the</p> <p>16 question.</p> <p>17 THE WITNESS: I mean, she forwarded to the</p> <p>18 board what I asked her to send.</p> <p>19 BY MR. COX:</p> <p>20 Q. Right. And let me, perhaps, be more</p> <p>21 specific.</p> <p>22 Is the message that you asked her to send</p> <p>23 to the board of directors, was that an accurate</p> <p>24 statement of the facts as you understood them to be</p> <p>25 at the time?</p>



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<p>1 MR. WATKINS: Objection to the form of the</p> <p>2 question.</p> <p>3 THE WITNESS: I mean, I -- I believe I</p> <p>4 shared information in this communication which</p> <p>5 included the facts I knew at the time.</p> <p>6 BY MR. COX:</p> <p>7 Q. And this information that you shared, you</p> <p>8 believed it to be true, correct?</p> <p>9 MR. WATKINS: Objection to the form of the</p> <p>10 question.</p> <p>11 THE WITNESS: It was what had been</p> <p>12 communicated to me.</p> <p>13 BY MR. COX:</p> <p>14 Q. If you could, Mr. Marsh, if you could read</p> <p>15 the third sentence in the message to the board of</p> <p>16 directors that begins with "We explain"?</p> <p>17 MR. WATKINS: Objection to form.</p> <p>18 THE WITNESS: "We explained that Shaw had</p> <p>19 failed numerous times in providing an accurate</p> <p>20 schedule."</p> <p>21 BY MR. COX:</p> <p>22 Q. That was a true statement, correct?</p> <p>23 MR. WATKINS: Objection to form.</p> <p>24 THE WITNESS: We had disclosed that</p> <p>25 submodules had been an issue on the project. We</p>	<p>1 questions to ask you about this document.</p> <p>2 A. Okay. All right.</p> <p>3 Q. Did you receive this document at or around</p> <p>4 August 23rd, 2013?</p> <p>5 A. I don't specifically recall receiving it,</p> <p>6 but I accept that Lonnie Carter sent me this letter</p> <p>7 based on the document here.</p> <p>8 Q. The letter refers to a meeting on</p> <p>9 April 9th, 2013, with CB&amp;I executive leadership.</p> <p>10 Were you at this meeting?</p> <p>11 MR. WATKINS: Objection to form.</p> <p>12 THE WITNESS: I -- I just don't recall one</p> <p>13 way or the other if I were there.</p> <p>14 BY MR. COX:</p> <p>15 Q. So you don't recall anything that was</p> <p>16 discussed at that meeting?</p> <p>17 MR. WATKINS: Object.</p> <p>18 THE WITNESS: I don't.</p> <p>19 MR. WATKINS: Same objection.</p> <p>20 BY MR. COX:</p> <p>21 Q. The bottom of the first page refers to a</p> <p>22 "presidents' meeting" on June 21st, 2013.</p> <p>23 What is a "presidents' meeting," to your</p> <p>24 knowledge?</p> <p>25 A. We would periodically have a presidents'</p>
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<p>1 had had scheduling issues, delivery dates on the</p> <p>2 submodules.</p> <p>3 BY MR. COX:</p> <p>4 Q. It's true to say that Shaw had failed</p> <p>5 numerous times in providing an accurate module</p> <p>6 delivery schedule, correct?</p> <p>7 MR. WATKINS: Objection to the form of the</p> <p>8 question.</p> <p>9 THE WITNESS: Yes. And I believe we had</p> <p>10 disclosed that.</p> <p>11 BY MR. COX:</p> <p>12 Q. And you knew that Shaw had failed numerous</p> <p>13 times in June 2013, correct?</p> <p>14 MR. WATKINS: Same objection.</p> <p>15 THE WITNESS: With respect to the module</p> <p>16 delivery schedules they had provided, they had</p> <p>17 not delivered on a timely basis.</p> <p>18 MR. COX: Okay.</p> <p>19 (Exhibit 3 was marked for identification.)</p> <p>20 BY MR. COX:</p> <p>21 Q. Mr. Marsh, you've been handed a document</p> <p>22 dated August 23rd, 2013, a letter to you from Lonnie</p> <p>23 Carter. It's been labeled Exhibit 3 to your</p> <p>24 deposition.</p> <p>25 Feel free to review that, and I have a few</p>	<p>1 meeting where the executives of Westinghouse, CB&amp;I at</p> <p>2 the time, SCE&amp;G, and Santee Cooper would meet to</p> <p>3 discuss issues.</p> <p>4 Q. Did those meetings occur on a set periodic</p> <p>5 schedule, or as needed?</p> <p>6 MR. CHALLY: Object to form.</p> <p>7 MR. WATKINS: Same objection.</p> <p>8 THE WITNESS: My memory is they were --</p> <p>9 they were generally quarterly if we could</p> <p>10 coordinate getting everybody together, but I --</p> <p>11 there was no set schedule other than that, that</p> <p>12 I recall.</p> <p>13 BY MR. COX:</p> <p>14 Q. Do you have any recollection of this</p> <p>15 presidents' meeting on June 21st, 2013, that</p> <p>16 Mr. Carter refers to in this letter?</p> <p>17 A. I don't.</p> <p>18 Q. Do you believe that anything in this</p> <p>19 letter that Mr. Carter sent to you, Exhibit 3, is</p> <p>20 inaccurate?</p> <p>21 MR. CHALLY: Object to form.</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 Obviously, take your time to review the</p> <p>24 whole document if you need to.</p> <p>25 THE WITNESS: It's -- it's Mr. Carter's</p>

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<p>1 letter. I have not -- I haven't verified the</p> <p>2 dates. I don't recall receiving the letter. I</p> <p>3 don't -- I don't -- it wasn't my practice to</p> <p>4 send someone out to verify dates that came in a</p> <p>5 letter from Mr. Carter when I received one.</p> <p>6 BY MR. COX:</p> <p>7 Q. But in reading it now, is there anything</p> <p>8 when you read it you realize, "Wait. I don't agree</p> <p>9 with his statement on that issue"?</p> <p>10 MR. CHALLY: Object to form.</p> <p>11 MR. WATKINS: Same objection.</p> <p>12 THE WITNESS: As I read it, I don't know</p> <p>13 that I can accept all of Mr. Carter's opinions</p> <p>14 as he states those in the letter, as I read it</p> <p>15 here today.</p> <p>16 I think the issue he's raising is the</p> <p>17 structural modules and the delays in delivering</p> <p>18 the structural modules.</p> <p>19 I don't disagree with the issue he's</p> <p>20 describing here. We had talked about that issue</p> <p>21 with the Commission in our public filings and</p> <p>22 reports to the Commission and the Office of</p> <p>23 Regulatory Staff. I don't disagree with the</p> <p>24 issue he's talking about here.</p> <p>25</p>	<p>1 Commission for approval and had talked about it</p> <p>2 in testimony in numerous occasions since then.</p> <p>3 BY MR. COX:</p> <p>4 Q. Do you agree with the statement that the</p> <p>5 inability of the consortium to deliver submodules was</p> <p>6 a major source of concern and risk for the project</p> <p>7 for a long time?</p> <p>8 MR. WATKINS: Objection to form of the</p> <p>9 question. It's been asked and answered.</p> <p>10 THE WITNESS: It's an issue that we -- we</p> <p>11 acknowledged, we accepted, we had informed the</p> <p>12 Commission, and we had identified as a risk. We</p> <p>13 had done that. I agree with that.</p> <p>14 BY MR. COX:</p> <p>15 Q. Was it a major risk at this time?</p> <p>16 MR. CHALLY: Object to form.</p> <p>17 THE WITNESS: I can't interpret what</p> <p>18 Lonnie's belief of a major source of concern</p> <p>19 was. It was an issue. I acknowledge it was an</p> <p>20 issue.</p> <p>21 MR. WATKINS: Let me make sure that my</p> <p>22 objection to the form of the previous question</p> <p>23 is on the record.</p> <p>24 BY MR. COX:</p> <p>25 Q. On the second page, Mr. Marsh, the first</p>
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<p>1 BY MR. COX:</p> <p>2 Q. What characterizations of the issue do you</p> <p>3 agree with?</p> <p>4 MR. WATKINS: Objection to the form of the</p> <p>5 question.</p> <p>6 MR. CHALLY: Same.</p> <p>7 THE WITNESS: I mean, any -- anything</p> <p>8 where he has expressed his opinion, I -- I'm</p> <p>9 going to let him express his opinion. I may or</p> <p>10 may not agree with it.</p> <p>11 BY MR. COX:</p> <p>12 Q. At the bottom of the first page, the first</p> <p>13 line of the last paragraph on the first page, it</p> <p>14 says, quote, The consortium's inability to deliver</p> <p>15 submodules has been a major source of concern and</p> <p>16 risk for this project for a long time, end quote.</p> <p>17 Do you agree with that statement?</p> <p>18 MR. WATKINS: Objection to the form of the</p> <p>19 question.</p> <p>20 THE WITNESS: I'd agree that delivery</p> <p>21 dates on modules had been an issue, and we had</p> <p>22 raised the concern.</p> <p>23 We had also raised the risk and identified</p> <p>24 that for the Commission back in 2008 when we</p> <p>25 initially presented the project to the</p>	<p>1 sentence that begins on the second page says, quote,</p> <p>2 Our view is that the consortium's inability to</p> <p>3 fulfill their contractual commitments in a timely</p> <p>4 manner places the project's future in danger, end</p> <p>5 quote.</p> <p>6 Do you agree with Mr. Carter's view on</p> <p>7 this issue?</p> <p>8 MR. WATKINS: Objection to the form of the</p> <p>9 question.</p> <p>10 MR. CHALLY: Same.</p> <p>11 THE WITNESS: And I'll acknowledge that</p> <p>12 this is Mr. Carter's opinion. I don't know that</p> <p>13 our team on site would have agreed with his</p> <p>14 conclusion there. I'm not in a position to</p> <p>15 understand the overall impact of that on the</p> <p>16 schedule without understanding all the other</p> <p>17 issues related -- related to that in the</p> <p>18 scheduling process. And I didn't do that. That</p> <p>19 wasn't my responsibility.</p> <p>20 BY MR. COX:</p> <p>21 Q. So Mr. Carter was the CEO of Santee</p> <p>22 Cooper, correct?</p> <p>23 A. Right.</p> <p>24 Q. He wasn't involved in construction on the</p> <p>25 project, correct?</p>

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<p>1 A. He was not.</p> <p>2 Q. And this letter reflects his opinion that</p> <p>3 the consortium's inability to fulfill their</p> <p>4 contractual commitments in a timely manner places the</p> <p>5 project's future in danger, correct?</p> <p>6 MR. WATKINS: Objection to form.</p> <p>7 THE WITNESS: Mr. Carter stated his views</p> <p>8 in the letter. I don't know if those were his</p> <p>9 views directly, if someone on his team that was</p> <p>10 on site and had more access to detail had given</p> <p>11 that to Mr. Carter, or that somebody else didn't</p> <p>12 write this letter for Mr. Carter. I have no way</p> <p>13 of knowing that.</p> <p>14 BY MR. COX:</p> <p>15 Q. But you would agree that this letter sent</p> <p>16 to you informs you that Mr. Carter has formed the</p> <p>17 opinion that the consortium's inability to fulfill</p> <p>18 their contractual commitments is placing the project</p> <p>19 in jeopardy, correct?</p> <p>20 MR. WATKINS: Objection to the form of the</p> <p>21 question.</p> <p>22 MR. CHALLY: Same.</p> <p>23 THE WITNESS: What I take away from this</p> <p>24 letter is he's raising the issue of the</p> <p>25 submodules and the challenges we've had in</p>	<p>1 that by my -- by myself.</p> <p>2 BY MR. COX:</p> <p>3 Q. Did you take any effort to do that after</p> <p>4 you received this letter?</p> <p>5 MR. WATKINS: Objection to the form of the</p> <p>6 question.</p> <p>7 THE WITNESS: I had had a number of</p> <p>8 conversations with Mr. Byrne about modules and</p> <p>9 the status of module deliveries.</p> <p>10 I knew it was at issue, and if it were an</p> <p>11 issue, it was something our team was evaluating.</p> <p>12 They were constantly evaluating issues that came</p> <p>13 up on the site as construction proceeded.</p> <p>14 BY MR. COX:</p> <p>15 Q. Did you ever form an opinion as to whether</p> <p>16 the consortium's inability to meet its contractual</p> <p>17 commitments constituted a risk to the project?</p> <p>18 MR. WATKINS: Objection.</p> <p>19 THE WITNESS: I -- I based -- my knowledge</p> <p>20 was based on what I was informed of by the</p> <p>21 construction team or the oversight team on site,</p> <p>22 Mr. Byrne and his senior executives.</p> <p>23 We -- we knew that was an issue. But I</p> <p>24 didn't -- I didn't understand, and Mr. Byrne</p> <p>25 would have had to explain to me what other</p>
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<p>1 keeping a consortium on schedule and delivering</p> <p>2 those modules on site, which were a source of</p> <p>3 delay.</p> <p>4 I mean, that's an issue we were aware of.</p> <p>5 That's an issue we had disclosed to the</p> <p>6 Commission. It had been included in our</p> <p>7 quarterly reports to the Office of the</p> <p>8 Regulatory Staff and the Commission on the</p> <p>9 status of the project.</p> <p>10 I mean, this was not an issue that was</p> <p>11 unknown. This was widely known. They were</p> <p>12 having the same issues at the project in</p> <p>13 Georgia, at Vogtle.</p> <p>14 BY MR. COX:</p> <p>15 Q. At the time you received this letter, did</p> <p>16 you not know enough about the issue to form an</p> <p>17 opinion as to whether the consortium's inability to</p> <p>18 fulfill their contractual commitments in a timely</p> <p>19 manner placed the project's future in danger?</p> <p>20 MR. WATKINS: Objection to the form of the</p> <p>21 question.</p> <p>22 MR. CHALLY: Same.</p> <p>23 THE WITNESS: I didn't know on my own</p> <p>24 without communicating with my team, my</p> <p>25 construction team. I couldn't have concluded</p>	<p>1 efforts could be taken to offset or mitigate the</p> <p>2 impacts of potential delays in receiving</p> <p>3 submodules.</p> <p>4 I know there were occasions where certain</p> <p>5 work was altered or the way work was scheduled</p> <p>6 to proceed, they would alter the way that work</p> <p>7 was to be done so they could accommodate the</p> <p>8 delay in the modules' delivery.</p> <p>9 So just because a module wasn't delivered</p> <p>10 on time didn't necessarily mean it put the --</p> <p>11 the completion dates of the project in grave</p> <p>12 danger.</p> <p>13 BY MR. COX:</p> <p>14 Q. After you received this letter, Mr. Marsh,</p> <p>15 did you say to yourself, Lonnie thinks that this</p> <p>16 issue is placing the project's future in danger, and</p> <p>17 I need to figure out if he's right, that it's that</p> <p>18 big a problem?</p> <p>19 MR. WATKINS: Objection to the form of the</p> <p>20 question.</p> <p>21 MR. CHALLY: Same.</p> <p>22 THE WITNESS: As I said earlier, I don't</p> <p>23 recall receiving the letter. The issues that</p> <p>24 were raised in the letter are something those of</p> <p>25 us that were associated with the project were</p>

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<p>1 aware of. It had been disclosed. We knew they 2 were issues.</p> <p>3 It doesn't strike me as an unusual letter 4 for Lonnie. You know, Lonnie -- it was kind of 5 Lonnie's custom if he wanted to, you know, raise 6 an issue or make sure, you know, the issue was 7 documented that he -- he would send me a letter.</p> <p>8 I mean, I wasn't -- I wasn't stunned that 9 I got a letter from Lonnie.</p> <p>10 And just knowing Lonnie as well as I have 11 over all the years I've known him, I don't want 12 to impugn his character, but he was kind of a 13 glass-half-full kind of guy. He was always 14 looking on the negative side for most things 15 and, you know, I wouldn't just accept what he 16 said as the gospel per se.</p> <p>17 BY MR. COX:</p> <p>18 Q. So you mean a glass-half-empty kind of 19 guy?</p> <p>20 A. Yeah. Glass half empty. I'm sorry. I 21 misspoke.</p> <p>22 Q. And you viewed him as raising concerns 23 about the project in an exaggerated way; is that 24 true?</p> <p>25 MR. WATKINS: Objection to form.</p>	<p>1 There were evaluations taking place. We were 2 working with the consortium to help them 3 identify ways they could mitigate the issue. I 4 mean, I didn't -- I don't believe I needed to 5 engage anybody in this process.</p> <p>6 I believe that was already taking place.</p> <p>7 BY MR. COX:</p> <p>8 Q. But it's correct to say that you had not 9 formed an opinion like Mr. Carter had, according to 10 this letter, that the consortium's issues placed the 11 project's future in danger?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 MR. CHALLY: Same.</p> <p>14 THE WITNESS: We had disclosed that we 15 were -- there were delays in the delivery of the 16 submodules and that that could impact the 17 schedule. We had disclosed that.</p> <p>18 We had disclosed we were working with the 19 consortium to find ways to address the problem, 20 from my memory and testimony at the Commission. 21 And it was -- this was not a new issue.</p> <p>22 I don't know -- I can't speak for Lonnie. 23 I don't know why he would have decided that, at 24 this point, to send that letter because that was 25 an issue that arose prior to the date on his</p>
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<p>1 THE WITNESS: And I can't speak to what he 2 believed. I believe what he said in the letter. 3 I can read what he said in the letter.</p> <p>4 But the tone of the letter wouldn't have 5 alarmed me, just being around Lonnie for all the 6 years I have known Lonnie.</p> <p>7 It was an issue. It didn't shock me that 8 this was an issue. I knew it was an issue based 9 on what Steve had told me and what we had told 10 the Commission and the Office of the Regulatory 11 Staff.</p> <p>12 This was not a new issue. It was widely 13 known.</p> <p>14 BY MR. COX:</p> <p>15 Q. So is it correct to say, Mr. Marsh, that 16 you don't recall, after receiving this letter, doing 17 any work to determine whether you agreed with 18 Mr. Carter's opinion that the consortium's problems 19 in this area put the project's future in danger?</p> <p>20 MR. CHALLY: Object to form.</p> <p>21 MR. WATKINS: Objection to the form of the 22 request. It misstates witness's testimony, and 23 it's vague and ambiguous.</p> <p>24 THE WITNESS: You know, my memory is, as I 25 said, this was an issue. Work was underway.</p>	<p>1 letter, and it was one of our primary concerns. 2 It was an issue we were paying close attention 3 to and working hard to resolve.</p> <p>4 BY MR. COX:</p> <p>5 Q. And if you turn to the first page of the 6 letter, Mr. Marsh, is Mr. Carter's first sentence of 7 this letter correct that for almost two years, SCE&amp;G 8 and Santee Cooper have been working with the 9 consortium, Westinghouse and CB&amp;I, to correct 10 submodule delivery issues from the Lake Charles 11 fabrication facility?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: That's what it says.</p> <p>14 BY MR. COX:</p> <p>15 Q. Is that -- was that a true statement?</p> <p>16 A. My memory is we -- we started identifying 17 the module issues in 2011. I don't remember the 18 specific dates, but that sounds about -- about right. 19 It's an issue we had been working very hard with the 20 consortium on.</p> <p>21 Q. And if you turn to the second paragraph of 22 the letter, Mr. Marsh, the second sentence of that 23 paragraph says that "CB&amp;I committed to deliver 24 83 submodules by the end of 2013. Several days after 25 the meeting, CB&amp;I provided its submodule delivery</p>

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<p>1 schedule, also dated April 9th, 2013, which committed 2 CB&amp;I to only 69 submodules for the remainder of 3 2013."</p> <p>4 Is that a correct statement?</p> <p>5 MR. WATKINS: Objection to the form of the 6 question.</p> <p>7 MR. CHALLY: Same.</p> <p>8 THE WITNESS: I don't recall specific 9 dates. I vaguely remember the CB&amp;I team 10 providing us with a module delivery schedule.</p> <p>11 BY MR. COX:</p> <p>12 Q. You don't know of anything that would 13 suggest that those statements in this letter are 14 untrue, do you?</p> <p>15 MR. WATKINS: Objection to form of the 16 question.</p> <p>17 MR. CHALLY: Same.</p> <p>18 THE WITNESS: I just don't know about the 19 dates.</p> <p>20 BY MR. COX:</p> <p>21 Q. The third paragraph -- the third paragraph 22 of the letter, Mr. Marsh, the second sentence of that 23 paragraph states that, quote, This delay was 24 quantified as 9 to 12 months and publicly announced 25 to the financial community by SCE&amp;G at an Analyst Day</p>	<p>1 MR. CHALLY: Same.</p> <p>2 THE WITNESS: I do not know what 3 Mr. Carter is referring to.</p> <p>4 BY MR. COX:</p> <p>5 Q. You don't recall that meeting, do you?</p> <p>6 A. I don't recall it. No, I don't.</p> <p>7 Q. Did you ever form the opinion that 8 Westinghouse and CB&amp;I did not function well as a 9 team?</p> <p>10 A. As the project progressed -- I believe it 11 was in 2015 -- we began to become aware that there 12 were issues between Westinghouse and CB&amp;I, commercial 13 issues between the two of them, that concerned us.</p> <p>14 Q. Can you describe what those issues were?</p> <p>15 A. They were -- we had -- we had raised 16 questions about cost. I don't remember the specific 17 costs. Some of them, I believe, are related to the 18 submodules because we had fixed a price for those 19 modules back in the amendment that was done in 2012.</p> <p>20 There were costs associated with 21 completing those, and I believe there was some other 22 issues that we didn't believe it was responsible -- 23 that I didn't believe or the team didn't believe it 24 was the responsibility for SCE&amp;G or Santee Cooper to 25 bear that cost.</p>
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<p>1 presentation June 5th, 2013.</p> <p>2 Is it correct that the CB&amp;I submodule 3 delivery schedule caused a 9-to-12-month delay?</p> <p>4 MR. WATKINS: Objection --</p> <p>5 MR. CHALLY: Object to form.</p> <p>6 MR. WATKINS: -- to the form of the 7 question.</p> <p>8 THE WITNESS: I acknowledge that the 9 delivery schedule was an issue. I don't know if 10 that alone led to the 9-to-12-month delay that 11 was announced here. I just don't recall the 12 details.</p> <p>13 BY MR. COX:</p> <p>14 Q. In the bottom paragraph on the first page, 15 the letter states, quote, At the last presidents' 16 meeting on June 21st, 2013, the Westinghouse and CB&amp;I 17 discussion demonstrated that they do not function 18 well as a team to resolve critical project issues, 19 end quote.</p> <p>20 Do you agree with Mr. Carter's conclusion 21 that the Westinghouse and CB&amp;I discussion 22 demonstrated that they did not function well as a 23 team?</p> <p>24 MR. WATKINS: Objection to form of the 25 question.</p>	<p>1 We had informed the consortium that that 2 was our position, and it appeared to us that there 3 was some disagreement between the consortium partners 4 as to who would be responsible for that. I seem to 5 recall Steve providing some testimony on that, but I 6 don't recall specifically, at the Commission. But 7 that -- but we sensed there were issues between the 8 consortium, and their relationship was not as strong 9 as we would like for it to be.</p> <p>10 Q. And that was in 2015, correct?</p> <p>11 A. That's my memory. That was in 2015.</p> <p>12 Q. And that was two years after Mr. Carter's 13 letter to you, Exhibit 3, correct?</p> <p>14 MR. WATKINS: Objection to form.</p> <p>15 THE WITNESS: I mean, I recall 2015.</p> <p>16 He -- the date of this letter is the -- 17 August 23rd, 2013. But I don't know what 18 Mr. Carter was referring to when he says they 19 don't function well as a team.</p> <p>20 BY MR. COX:</p> <p>21 Q. This letter, Exhibit 3, you did not 22 provide this letter to the Commission, did you?</p> <p>23 MR. WATKINS: Objection to form.</p> <p>24 THE WITNESS: I -- I don't recall if we 25 provided it or not.</p>

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<p>1 BY MR. COX:</p> <p>2 Q. And is it true that your company did not</p> <p>3 provide this letter to ORS?</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 MR. CHALLY: Same.</p> <p>6 THE WITNESS: I don't know if we provided</p> <p>7 the letter to the Office of Regulatory Staff,</p> <p>8 but we -- we clearly on many occasions provided</p> <p>9 information regarding the issues surrounding</p> <p>10 submodules.</p> <p>11 I don't know what conversations may have</p> <p>12 taken place on site with the ORS personnel who</p> <p>13 were on site on a daily basis working with the</p> <p>14 construction team on site. I don't know what</p> <p>15 conversations may have taken place with them on</p> <p>16 site, but I'm comfortable we disclosed issues</p> <p>17 related to the submodules and the delays</p> <p>18 associated with that.</p> <p>19 (Exhibit 4 was marked for identification.)</p> <p>20 BY MR. COX:</p> <p>21 Q. Mr. Marsh, we have had labeled Exhibit 4</p> <p>22 an e-mail exchange that involved you and Mr. Carter.</p> <p>23 If you could read this, I've got a few</p> <p>24 questions for you about it.</p> <p>25 MR. ELLERBE: Do you have dates?</p>	<p>1 delivery to the site, and that had a potential</p> <p>2 impact -- you know, of impact on our project.</p> <p>3 We wanted to continue to meet with them to</p> <p>4 find out what their plans were and what steps</p> <p>5 they continued to take or they were going to</p> <p>6 take to address the issue.</p> <p>7 BY MR. COX:</p> <p>8 Q. Are all the statements in your e-mail to</p> <p>9 them correct, to the best of your knowledge?</p> <p>10 MR. WATKINS: Objection to the form of the</p> <p>11 question.</p> <p>12 MR. CHALLY: Same.</p> <p>13 THE WITNESS: I stand by what I said in</p> <p>14 the e-mail. That's what I said in the e-mail.</p> <p>15 BY MR. COX:</p> <p>16 Q. And it's correct that the consortium was</p> <p>17 in its third year of unsuccessful attempts to resolve</p> <p>18 its manufacturing problems at the facility, which</p> <p>19 continued to impact the project negatively?</p> <p>20 A. That is what I said, yes.</p> <p>21 Q. And is it correct that the consortium's</p> <p>22 missed deadlines put potentially unrecoverable stress</p> <p>23 on the milestone schedule approved by the</p> <p>24 South Carolina Public Service Commission?</p> <p>25 A. That's what I said.</p>
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<p>1 MR. COX: Exhibit 4 is an e-mail exchange</p> <p>2 dated September 5th, 2013, Bates-numbered</p> <p>3 FOE0000018 through -19.</p> <p>4 THE WITNESS: Okay.</p> <p>5 BY MR. COX:</p> <p>6 Q. On the second page of Exhibit 4,</p> <p>7 Mr. Marsh, is this an e-mail from you to Danny</p> <p>8 Roderick and Phil Asherman?</p> <p>9 A. Yes, it is.</p> <p>10 Q. And they were the CEOs of Westinghouse and</p> <p>11 CB&amp;I, correct?</p> <p>12 A. Phil Asherman was the CEO of CB&amp;I. I'm</p> <p>13 not sure if Danny was CEO or just president. I don't</p> <p>14 recall -- minor detail, but I don't recall his</p> <p>15 specific position. It was either president or CEO.</p> <p>16 Q. Why did you send this e-mail to those two</p> <p>17 individuals?</p> <p>18 MR. WATKINS: Objection to form.</p> <p>19 THE WITNESS: It appears, based on reading</p> <p>20 my comments, that we've continued to express our</p> <p>21 concerns about the delivery of modules from the</p> <p>22 Lake Charles facility.</p> <p>23 As I said earlier, they're -- they were</p> <p>24 not doing a good job at that facility in</p> <p>25 manufacturing or fabricating the submodules for</p>	<p>1 Q. And it's correct that SCE&amp;G had serious</p> <p>2 concerns about the consortium's ability to deliver</p> <p>3 modules from the Lake Charles facility?</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 THE WITNESS: We had -- we raised our</p> <p>6 concerns about the problems at the Lake Charles</p> <p>7 facility on many occasions. This was just</p> <p>8 another time that I mentioned that concern that</p> <p>9 had been expressed to me from Steve Byrne and</p> <p>10 others on site at the construction project as an</p> <p>11 ongoing concern.</p> <p>12 BY MR. COX:</p> <p>13 Q. And your company's concerns were serious,</p> <p>14 correct?</p> <p>15 MR. WATKINS: Objection to form.</p> <p>16 MR. CHALLY: Same.</p> <p>17 THE WITNESS: That's what I said: They</p> <p>18 were serious concerns that we believed needed to</p> <p>19 be addressed.</p> <p>20 BY MR. COX:</p> <p>21 Q. In response, Mr. Carter says to you,</p> <p>22 quote, Thanks. I believe your letter is clear and</p> <p>23 expresses the urgency well, end quote.</p> <p>24 Do you agree that there was urgency</p> <p>25 attached to your letter?</p>

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<p>1 MR. WATKINS: Objection to the form of the</p> <p>2 question.</p> <p>3 THE WITNESS: I believe we said it was a</p> <p>4 serious issue for us, and we had proposed dates</p> <p>5 indicating that we thought it was important that</p> <p>6 we meet in the near future.</p> <p>7 BY MR. COX:</p> <p>8 Q. Do you agree with Mr. Carter that your</p> <p>9 request had urgency attached to it?</p> <p>10 MR. WATKINS: Same objection.</p> <p>11 THE WITNESS: I don't -- I don't believe I</p> <p>12 used the word "urgency" in my letter, but I did</p> <p>13 express the need for us to meet in the very near</p> <p>14 future.</p> <p>15 BY MR. COX:</p> <p>16 Q. And to be clear, Mr. Carter is saying</p> <p>17 that, and I'm not suggesting you said it. I want to</p> <p>18 know if you agree with him about this being -- there</p> <p>19 being urgency attached to this situation.</p> <p>20 A. That's Mr. Carter's word. It was</p> <p>21 certainly an issue I wanted the team to address. It</p> <p>22 had been -- as I had been informed by the nuclear</p> <p>23 team on site, that was a continuing issue of</p> <p>24 challenge for us, specifically at the Lake Charles</p> <p>25 facility. That was -- one of our biggest concerns</p>	<p>1 owners' engineer. I don't know what thoughts</p> <p>2 went through his mind. But I was confident that</p> <p>3 the team we had on site was capable of</p> <p>4 identifying the issues.</p> <p>5 I don't -- don't know what all an owners'</p> <p>6 engineer would have done. But we had identified</p> <p>7 the issue. We didn't need an owners' engineer</p> <p>8 to identify the issue. We had identified the</p> <p>9 issue. We had identified opportunities that we</p> <p>10 believed CB&amp;I -- "we" being the team,</p> <p>11 construction team on site -- had identified ways</p> <p>12 they could look at, you know, addressing the</p> <p>13 issue.</p> <p>14 We were pointing out the issue. We were</p> <p>15 giving them suggestions from an oversight</p> <p>16 perspective as to how they could address those.</p> <p>17 BY MR. COX:</p> <p>18 Q. So the reason that you didn't consider --</p> <p>19 reconsider the question of using an owners' engineer</p> <p>20 is because Steve Byrne didn't come to you and say,</p> <p>21 "Hey, Kevin, I think an owners' engineer might help</p> <p>22 us on this issue"?</p> <p>23 MR. CHALLY: Object to form.</p> <p>24 MR. WATKINS: Objection to the form of the</p> <p>25 question. It's vague and ambiguous, and it</p>
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<p>1 was the Lake Charles facility was not able to deliver</p> <p>2 the modules on a timely basis.</p> <p>3 We had encouraged them to reach out to</p> <p>4 other facilities to help them as a way to mitigate</p> <p>5 that schedule impact, and we didn't believe they were</p> <p>6 responding to us appropriately.</p> <p>7 Q. Why didn't you reconsider at this point in</p> <p>8 time the decision on not to use an owners' engineer</p> <p>9 to help address this situation?</p> <p>10 MR. WATKINS: Objection to the form of the</p> <p>11 question.</p> <p>12 MR. CHALLY: Same.</p> <p>13 THE WITNESS: Yeah. I can't answer that.</p> <p>14 That would be in Steve Byrne's and the</p> <p>15 construction personnel on site's determination.</p> <p>16 BY MR. COX:</p> <p>17 Q. So you felt you would have needed</p> <p>18 Steve Byrne to come to you with a proposal to help</p> <p>19 address this situation; is that fair to say?</p> <p>20 MR. WATKINS: Objection to the form of the</p> <p>21 question.</p> <p>22 THE WITNESS: I believe Steve and his team</p> <p>23 on site were capable of providing the oversight</p> <p>24 needed on the project.</p> <p>25 I don't know if Steve considered an</p>	<p>1 mischaracterizes the witness's testimony.</p> <p>2 THE WITNESS: I don't believe it was --</p> <p>3 was my role to consider the owners' engineer.</p> <p>4 The oversight of the contract and the</p> <p>5 construction was Steve Byrne and the senior</p> <p>6 leadership's team on site. Had Steve brought</p> <p>7 that issue to me, I would have considered it</p> <p>8 along with him based on his input to me, but</p> <p>9 that was not an issue that I felt like I needed</p> <p>10 to raise with Steve.</p> <p>11 BY MR. COX:</p> <p>12 Q. You said this issue had been identified</p> <p>13 for a couple of years, but the issue hadn't been</p> <p>14 solved yet, right, Mr. Marsh?</p> <p>15 MR. WATKINS: Objection to form.</p> <p>16 THE WITNESS: I don't know that it had</p> <p>17 been completely solved. There had -- there had</p> <p>18 been some improvements, based on my memory, but</p> <p>19 not enough to keep people from having concerns</p> <p>20 on delivery dates.</p> <p>21 BY MR. COX:</p> <p>22 Q. And not enough to avoid putting</p> <p>23 potentially unrecoverable stress on the milestone</p> <p>24 schedule approved by the Commission, correct?</p> <p>25 MR. WATKINS: Objection to form.</p>

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<p>1 THE WITNESS: They -- that's what I said</p> <p>2 in the letter, yes.</p> <p>3 BY MR. COX:</p> <p>4 Q. What proposals did Mr. Byrne ever bring to</p> <p>5 you to help solve the issue with respect to submodule</p> <p>6 fabrication and delivery?</p> <p>7 A. The primary issue or recommendation I</p> <p>8 remember Mr. Byrne bringing up, he actually brought</p> <p>9 up in -- it may have been late 2011, 2012 when we</p> <p>10 first visited the facility and they started having</p> <p>11 issues was they should consider distributing those</p> <p>12 responsibilities to other locations where they could</p> <p>13 be fabricated by people that had more experience in</p> <p>14 manufacturing -- or fabricating the submodules.</p> <p>15 Q. And was that recommendation implemented?</p> <p>16 A. Ultimately, it was. I don't recall when</p> <p>17 it was actually done, but they ultimately did take</p> <p>18 Steve's recommendation and find other locations where</p> <p>19 parts could be fabricated.</p> <p>20 Q. Was it done prior to this e-mail,</p> <p>21 Exhibit 4?</p> <p>22 A. I don't -- I don't recall when they</p> <p>23 started doing that.</p> <p>24 Q. Did this meeting that you proposed to</p> <p>25 Roderick --</p>	<p>1 and Mr. Roderick.</p> <p>2 Would you like a few minutes to review</p> <p>3 this letter before I ask you questions about it?</p> <p>4 A. Yes, please.</p> <p>5 Q. Sure. And just so you know, one question</p> <p>6 I'm going to ask you -- the first question I'll ask</p> <p>7 you about this letter is whether there's anything in</p> <p>8 it that you believe is inaccurate.</p> <p>9 MR. WATKINS: I'm trying to make sure I'm</p> <p>10 clear: Anything in the entire document is</p> <p>11 inaccurate?</p> <p>12 MR. COX: Right.</p> <p>13 THE WITNESS: (Reviewing).</p> <p>14 MR. WATKINS: Just so I'm clear, I don't</p> <p>15 believe you provided this to us in advance,</p> <p>16 right?</p> <p>17 MR. COX: I don't think I provided any</p> <p>18 documents to you in advance.</p> <p>19 MR. WATKINS: Just wanted to make sure.</p> <p>20 We'll take a break, then, to review this.</p> <p>21 MR. COX: Let's go off the record.</p> <p>22 VIDEOGRAPHER: The time is 12:33 p.m., and</p> <p>23 we are off the record.</p> <p>24 (A luncheon recess transpired from 12:33</p> <p>25 until 1:28 p.m.)</p>
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<p>1 A. I --</p> <p>2 Q. I'm sorry.</p> <p>3 A. I'm going to correct my answer.</p> <p>4 I believe it was in early 2014, as I sit</p> <p>5 here and remember. It was -- I think it was early in</p> <p>6 2014 when they -- when they started doing that.</p> <p>7 Q. And that was at your company's</p> <p>8 recommendation?</p> <p>9 A. Well, Steve had pushed them consistently</p> <p>10 to consider that. I don't know that others -- it may</p> <p>11 have been personnel from the Vogtle project that were</p> <p>12 also pushing because they had the exact same issue.</p> <p>13 And we worked with them on trying to resolve some of</p> <p>14 the issues.</p> <p>15 Q. Do you know whether they used an owners'</p> <p>16 engineer on the Vogtle project?</p> <p>17 A. I don't.</p> <p>18 Q. In Exhibit 4, you request a meeting with</p> <p>19 Mr. Roderick and Asherman. Do you know if that</p> <p>20 meeting ever occurred?</p> <p>21 A. I don't recall.</p> <p>22 (Exhibit 5 was marked for identification.)</p> <p>23 BY MR. COX:</p> <p>24 Q. Mr. Marsh, Exhibit 5 is a letter from you</p> <p>25 and Mr. Carter dated May 6th, 2014, to Mr. Asherman</p>	<p>1 VIDEOGRAPHER: Time is 1:28 p.m., and we</p> <p>2 are back on record.</p> <p>3 BY MR. COX:</p> <p>4 Q. Mr. Marsh, we're back on the record after</p> <p>5 lunch, and you have in front of you Exhibit 5. Did</p> <p>6 you get a chance to review that document?</p> <p>7 A. I have reviewed it.</p> <p>8 Q. Is that your signature on the last page of</p> <p>9 the document?</p> <p>10 A. Yes, it is.</p> <p>11 Q. Is this a letter that you and Mr. Carter</p> <p>12 sent to Mr. Asherman and Roderick on or about</p> <p>13 May 6th, 2014?</p> <p>14 A. Yes. That's correct.</p> <p>15 Q. Is there anything that you believe to be</p> <p>16 inaccurate in the letter that you sent?</p> <p>17 A. I don't -- I don't have a reason to</p> <p>18 believe there's anything in here that is inaccurate.</p> <p>19 I will say that I didn't draft the letter.</p> <p>20 It was drafted for me or for us. I believe someone</p> <p>21 from Santee Cooper may have drafted the initial</p> <p>22 draft, and then it was -- was fact-checked by the</p> <p>23 legal team and the nuclear team on site because there</p> <p>24 is some detail in here, and I accepted that it had</p> <p>25 been checked and signed it.</p>



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<p>1 Q. And to the best of your knowledge, at the</p> <p>2 time you signed this letter, the facts stated in this</p> <p>3 letter were accurate; is that correct?</p> <p>4 A. To the best of my knowledge.</p> <p>5 MR. WATKINS: Objection to the form of the</p> <p>6 question.</p> <p>7 BY MR. COX:</p> <p>8 Q. Why did you and Mr. Carter send this</p> <p>9 letter to Mr. Asherman and Roderick?</p> <p>10 MR. CHALLY: Object to form.</p> <p>11 MR. WATKINS: Same objection.</p> <p>12 THE WITNESS: I don't recall what</p> <p>13 initially generated the thought to send the</p> <p>14 letter.</p> <p>15 It's a continuing push on our part to</p> <p>16 address the submodule issue and their inability</p> <p>17 to meet the schedules that they have -- that</p> <p>18 they have put out, trying to make sure they've</p> <p>19 gotten our attention up.</p> <p>20 I saw this as kind of a get-your-attention</p> <p>21 letter. We wanted to make sure, you know, we're</p> <p>22 serious here.</p> <p>23 We had -- we had scheduled a trip to -- to</p> <p>24 Toshiba to address some of these issues with</p> <p>25 Toshiba, the parent company of Westinghouse, and</p>	<p>1 problems."</p> <p>2 Q. And you're referring there in this letter</p> <p>3 to an assurance that Westinghouse and CB&amp;I made to</p> <p>4 SCE&amp;G and SCANA in 2000 -- or SCE&amp;G and Santee Cooper</p> <p>5 in 2012, correct?</p> <p>6 A. That's what it says, yes.</p> <p>7 Q. Then on the following page, page 5, can</p> <p>8 you read the first sentence under Roman numeral III?</p> <p>9 A. "Despite the consortium's assurances,</p> <p>10 module production did not improve after the 2012</p> <p>11 agreement."</p> <p>12 Q. That's a true statement, correct?</p> <p>13 A. Based on our experience at the time we</p> <p>14 wrote this letter, they -- they were -- had not</p> <p>15 improved as we anticipated they would when we signed</p> <p>16 the 2012 agreement.</p> <p>17 Q. And despite the assurances that they had</p> <p>18 made that they would solve that issue, correct?</p> <p>19 MR. WATKINS: Objection.</p> <p>20 THE WITNESS: I -- that's what it says,</p> <p>21 yes.</p> <p>22 BY MR. COX:</p> <p>23 Q. At the bottom of page 6, if you could turn</p> <p>24 to that page, can you read the last sentence in that</p> <p>25 page that starts with "Westinghouse"?</p>
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<p>1 I don't -- I don't recall exactly when that trip</p> <p>2 was scheduled, but it was in the latter May time</p> <p>3 frame, from what I recall.</p> <p>4 BY MR. COX:</p> <p>5 Q. Is it correct to say that the module</p> <p>6 production and delivery issues had not been solved at</p> <p>7 the time that you sent this letter to Mr. Asherman</p> <p>8 and Roderick?</p> <p>9 A. Yeah.</p> <p>10 MR. WATKINS: Objection to form.</p> <p>11 THE WITNESS: You know, at the time we</p> <p>12 sent the letter, as we've documented, we were</p> <p>13 continuing with issues on the fabrication of the</p> <p>14 submodules and their ability to hit schedules</p> <p>15 that they had provided us, that they could</p> <p>16 deliver the -- the modules, submodules.</p> <p>17 BY MR. COX:</p> <p>18 Q. If you could turn to page 4 of the</p> <p>19 document.</p> <p>20 A. Okay.</p> <p>21 Q. Under Roman numeral II at the top of the</p> <p>22 page, can you read the second sentence in that</p> <p>23 paragraph that starts with "Despite"?</p> <p>24 A. "Despite the poor progress, you assured us</p> <p>25 that you had resolved the module production</p>	<p>1 A. "Westinghouse did not attend the meeting,</p> <p>2 but CB&amp;I was there, and it promised that the</p> <p>3 consortium would deliver four modules in the second</p> <p>4 quarter of 2013, 40 modules in the third quarter and</p> <p>5 39 models -- modules in the fourth quarter."</p> <p>6 Q. That's a promise that CB&amp;I made to SCE&amp;G</p> <p>7 and Santee Cooper, correct?</p> <p>8 A. That's correct.</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 BY MR. COX:</p> <p>11 Q. Can you read the first sentence on -- I'm</p> <p>12 sorry, under subsection E on page 7, the first</p> <p>13 sentence?</p> <p>14 A. "We saw no improvement over the next</p> <p>15 several months. By July 18, 2013, the consortium had</p> <p>16 delivered only 44 of the 72 CA20 submodules. This</p> <p>17 means that it had delivered only 3 modules in the</p> <p>18 preceding 11 weeks."</p> <p>19 Q. That was a true statement, correct?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 THE WITNESS: That -- that's what we</p> <p>22 documented in the letter.</p> <p>23 BY MR. COX:</p> <p>24 Q. If you could turn to page 13 of the</p> <p>25 letter, could you read the first paragraph under</p>

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<p>1 subsection D?</p> <p>2 A. "As a result of these events, our</p> <p>3 frustration continues to mount. You have made</p> <p>4 promise after promise but fulfilled few of them."</p> <p>5 Q. That was a true statement at the time that</p> <p>6 you made it in this letter, correct?</p> <p>7 MR. WATKINS: Objection --</p> <p>8 MR. CHALLY: Object to form.</p> <p>9 MR. WATKINS: Objection to the form of the</p> <p>10 question.</p> <p>11 THE WITNESS: Can you repeat the question?</p> <p>12 BY MR. COX:</p> <p>13 Q. Sure. That was a true statement at the</p> <p>14 time that you made it in this letter, correct?</p> <p>15 MR. WATKINS: Same objection.</p> <p>16 MR. CHALLY: Same.</p> <p>17 THE WITNESS: That's what we stated in the</p> <p>18 letter.</p> <p>19 BY MR. COX:</p> <p>20 Q. And you believed it to be true, correct?</p> <p>21 MR. WATKINS: Same objection.</p> <p>22 THE WITNESS: Based on information</p> <p>23 provided to me by our nuclear team, yes.</p> <p>24 BY MR. COX:</p> <p>25 Q. The promises that you're referring to that</p>	<p>1 Mr. Carter on September 3rd were all accurate, to the</p> <p>2 best of your knowledge, at the time that you made</p> <p>3 them.</p> <p>4 A. Okay.</p> <p>5 Q. So, Mr. Marsh, your e-mail to Mr. Carter</p> <p>6 on September 3rd, was that e-mail accurate, the</p> <p>7 information in it, to the best of your knowledge?</p> <p>8 MR. WATKINS: Objection to form.</p> <p>9 THE WITNESS: Based on what I said in</p> <p>10 September 3rd, 2014, yes.</p> <p>11 BY MR. COX:</p> <p>12 Q. Your e-mail to Mr. Carter starts with the</p> <p>13 fact that you met with your team. Who are the</p> <p>14 members of your team that you're referring to?</p> <p>15 A. I don't recall all the members who would</p> <p>16 have been in there. I'm fairly confident that Steve</p> <p>17 Byrne was in there, but I don't recall who else might</p> <p>18 have attended that meeting.</p> <p>19 Q. Did you take any notes at that meeting?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you typically take notes at meetings</p> <p>22 you attend?</p> <p>23 MR. WATKINS: Objection to form.</p> <p>24 THE WITNESS: Sometimes I do, and</p> <p>25 sometimes I don't. Sometimes I'm primarily</p>
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<p>1 were not fulfilled by the consortium were promises</p> <p>2 regarding the schedule for delivery of submodules,</p> <p>3 correct?</p> <p>4 MR. WATKINS: Objection.</p> <p>5 THE WITNESS: It was their -- it was their</p> <p>6 lack of following up or lack of delivering</p> <p>7 submodules, based on a variety of schedules they</p> <p>8 had provided us.</p> <p>9 BY MR. COX:</p> <p>10 Q. SCE&amp;G did not provide a copy of this</p> <p>11 letter to the Commission, did it?</p> <p>12 A. I don't know if we did or did not.</p> <p>13 Q. SCE&amp;G did not provide a copy of this</p> <p>14 letter to ORS, did it?</p> <p>15 A. I don't know.</p> <p>16 MR. CHALLY: Object to form.</p> <p>17 (Exhibit 6 was marked for identification.)</p> <p>18 BY MR. COX:</p> <p>19 Q. Mr. Marsh, Exhibit 6 is an e-mail exchange</p> <p>20 between you and Mr. Carter dated September 3rd</p> <p>21 through September 8th, 2014, Bates-numbered</p> <p>22 ORS_00002009 through 2011.</p> <p>23 You can go ahead and review this document.</p> <p>24 The first question I would have for you is whether</p> <p>25 the statements in the initial e-mail you sent to</p>	<p>1 listening. It just depends on the source of the</p> <p>2 meeting and whether or not something leaves an</p> <p>3 impression that makes me want to write it down.</p> <p>4 BY MR. COX:</p> <p>5 Q. Did you have a standard practice for</p> <p>6 filing notes from the meetings at which you took</p> <p>7 notes?</p> <p>8 A. No, I didn't.</p> <p>9 Q. Would you typically discard those notes,</p> <p>10 or was it pretty random about what you would do with</p> <p>11 notes after a meeting?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: I mean, I would -- I have</p> <p>14 a -- I would generally keep my notes in a spiral</p> <p>15 notebook. And when that notebook was filled for</p> <p>16 me -- I keep notes of a lot of matters in there,</p> <p>17 not just nuclear matters -- and typically, when</p> <p>18 that notebook was filled, I would discard it.</p> <p>19 BY MR. COX:</p> <p>20 Q. Do you know if any of the notebooks that</p> <p>21 you took notes in regarding nuclear matters were</p> <p>22 still existing at the time that you left your</p> <p>23 position as CEO?</p> <p>24 A. I provided everything I had in my office</p> <p>25 related to nuclear matters to SCANA legal counsel</p>

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<p>1 before I left.</p> <p>2 Q. Did you recall seeing any notebooks with</p> <p>3 your notes from meetings among those papers that you</p> <p>4 gave to SCANA legal?</p> <p>5 A. There could have been. There was a large</p> <p>6 stack of information that I had accumulated over the</p> <p>7 years on the project.</p> <p>8 Q. When you say "SCANA legal," who did you</p> <p>9 give it to?</p> <p>10 A. SCANA general counsel.</p> <p>11 Q. Who was that?</p> <p>12 A. Jim Stuckey.</p> <p>13 Q. In your bullet point number 1 to</p> <p>14 Mr. Carter in Exhibit 6, it's true that you referred</p> <p>15 to the estimate given by the consortium for delay</p> <p>16 costs as being a very preliminary number, isn't it?</p> <p>17 A. That's correct. My memory is we had -- we</p> <p>18 had just received that in late August from the</p> <p>19 consortium.</p> <p>20 Q. And under bullet point number 2, you refer</p> <p>21 to a team that was put together to review that</p> <p>22 information.</p> <p>23 Do you recall who was on that team?</p> <p>24 A. I don't recall specifically. When we</p> <p>25 received an update -- if we received an update from</p>	<p>1 THE WITNESS: Well, the goal was to put</p> <p>2 together a team that would have people that</p> <p>3 would either be qualified to look at it or they</p> <p>4 could reach out to other experts, as they felt</p> <p>5 necessary, around the organization to help with</p> <p>6 the review.</p> <p>7 BY MR. COX:</p> <p>8 Q. And isn't it true that SCE&amp;G wanted to put</p> <p>9 the best quality of analysis on the -- that cost</p> <p>10 information?</p> <p>11 MR. CHALLY: Object to form.</p> <p>12 MR. WATKINS: Same.</p> <p>13 THE WITNESS: I mean, we -- we used team</p> <p>14 members from the site whom we believed were</p> <p>15 qualified to look at it. That was our</p> <p>16 objective, is to have qualified people from the</p> <p>17 site examine the information and review it.</p> <p>18 BY MR. COX:</p> <p>19 Q. On bullet point number 3 here, you refer</p> <p>20 to -- actually, could you read the first sentence of</p> <p>21 that bullet point?</p> <p>22 A. "We are ready to move forward with</p> <p>23 hiring/engaging an additional resource with</p> <p>24 significant construction expertise to assist us with</p> <p>25 evaluating the construction schedule and project</p>
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<p>1 the consortium at a level that would require us to</p> <p>2 update the Commission because it was going to have an</p> <p>3 impact on cost and schedule, if it were -- if it were</p> <p>4 accurate, Steve Byrne would normally assign a team of</p> <p>5 people at the site to go through it, review it, and</p> <p>6 try to understand what was in it.</p> <p>7 Q. And is it true that the company would</p> <p>8 assign people that it felt were the best qualified to</p> <p>9 analyze that information?</p> <p>10 MR. WATKINS: Object --</p> <p>11 MR. CHALLY: Object to form.</p> <p>12 MR. WATKINS: Same objection.</p> <p>13 THE WITNESS: My memory is it was people</p> <p>14 who were on site who were familiar with</p> <p>15 construction activities, primarily from the</p> <p>16 finance and administration department, along</p> <p>17 with appropriate personnel from construction.</p> <p>18 BY MR. COX:</p> <p>19 Q. Is it true that the Commission would --</p> <p>20 I'm sorry.</p> <p>21 Is it true that the company would identify</p> <p>22 people who it felt would be best qualified to review</p> <p>23 that information?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 MR. WATKINS: Same objection.</p>	<p>1 status."</p> <p>2 Q. That was a true statement at the time you</p> <p>3 made it, right, Mr. Marsh?</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 THE WITNESS: That was the statement I</p> <p>6 made at the date of this e-mail.</p> <p>7 BY MR. COX:</p> <p>8 Q. And is it true that ultimately your</p> <p>9 company authorized the retention of the Bechtel</p> <p>10 Corporation to conduct this assessment?</p> <p>11 MR. CHALLY: Object to form.</p> <p>12 MR. WATKINS: Same objection.</p> <p>13 THE WITNESS: No, that's not correct.</p> <p>14 BY MR. COX:</p> <p>15 Q. Tell me how that's incorrect.</p> <p>16 MR. WATKINS: Objection to the form.</p> <p>17 There's no question pending.</p> <p>18 THE WITNESS: I mean, this was not in any</p> <p>19 way referring to Bechtel.</p> <p>20 BY MR. COX:</p> <p>21 Q. Bechtel did an assessment of the project</p> <p>22 in 2015, correct?</p> <p>23 MR. WATKINS: Objection to form.</p> <p>24 MR. CHALLY: Same objection.</p> <p>25 THE WITNESS: Our outside legal counsel</p>

## Kevin Marsh

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<p>1 and construction expert engaged Bechtel to do a</p> <p>2 project assessment in 2015.</p> <p>3 BY MR. COX:</p> <p>4 Q. Did Bechtel assess the project in 2015?</p> <p>5 MR. WATKINS: Same objection.</p> <p>6 THE WITNESS: They performed the</p> <p>7 procedures that George Wenick and the Bechtel</p> <p>8 team agreed to.</p> <p>9 BY MR. COX:</p> <p>10 Q. And you were aware that that assessment</p> <p>11 was occurring at the time that it was conducted,</p> <p>12 correct?</p> <p>13 A. I was aware that George Wenick had engaged</p> <p>14 them to do a review and that they were on site doing</p> <p>15 that, yes.</p> <p>16 Q. And your company authorized Mr. Wenick to</p> <p>17 enter into that contract with Bechtel Corporation to</p> <p>18 conduct that assessment, correct?</p> <p>19 MR. WATKINS: Objection to the form of the</p> <p>20 question.</p> <p>21 THE WITNESS: Mr. Wenick --</p> <p>22 MR. COX: What's the objection there?</p> <p>23 MR. WATKINS: "Your company" is vague and</p> <p>24 ambiguous. I'm not even sure what "your</p> <p>25 company" means. Mr. Kevin Marsh does not own</p>	<p>1 THE WITNESS: No. And I don't think in</p> <p>2 any way it's connected to this. This letter of</p> <p>3 communication that I sent to Mr. Carter was</p> <p>4 September of 2014, and the Bechtel assessment,</p> <p>5 based on my knowledge, wasn't even considered</p> <p>6 until 2015.</p> <p>7 BY MR. COX:</p> <p>8 Q. The need that you're referring to here, as</p> <p>9 far as hiring/engaging an additional resource, is</p> <p>10 that the same need that you ultimately agreed to have</p> <p>11 Bechtel fulfill in 2015?</p> <p>12 MR. CHALLY: Object to form.</p> <p>13 MR. WATKINS: Objection.</p> <p>14 THE WITNESS: I don't believe in any way</p> <p>15 they're connected. The additional resource</p> <p>16 here, in my understanding from my recollection,</p> <p>17 addresses an individual that we were considering</p> <p>18 adding to our team to work with our team in</p> <p>19 evaluating ongoing schedule-related activities.</p> <p>20 BY MR. COX:</p> <p>21 Q. And can you describe what ultimately --</p> <p>22 what individual was ultimately retained to fill that</p> <p>23 role?</p> <p>24 A. I don't recall if anyone was retained. We</p> <p>25 recommended that Jeff Archie and Mike Crosby help</p>
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<p>1 this company.</p> <p>2 I'm not even sure what the time frame is</p> <p>3 here. But it's vague and ambiguous, and it</p> <p>4 mischaracterizes testimony.</p> <p>5 BY MR. COX:</p> <p>6 Q. Go ahead.</p> <p>7 A. Mr. Wenick, who was construction counsel</p> <p>8 that had been engaged by SCE&amp;G and Santee Cooper,</p> <p>9 recommended and believed it would be a good idea to</p> <p>10 engage Bechtel to do an assessment in anticipation of</p> <p>11 potential litigation.</p> <p>12 He suggested that, and we -- and the</p> <p>13 leadership team believed he should pursue it.</p> <p>14 Q. So it's correct that SCE&amp;G authorized</p> <p>15 Mr. Wenick to engage Bechtel to conduct that</p> <p>16 assessment?</p> <p>17 A. We accepted his counsel as an outside</p> <p>18 construction expert that that would be a step that</p> <p>19 would potentially prove useful in anticipation of</p> <p>20 litigation, based on his advice.</p> <p>21 Q. And your testimony is that that assessment</p> <p>22 conducted by Bechtel is not an assessment that you're</p> <p>23 referring to here in Exhibit Number 6; is that</p> <p>24 correct?</p> <p>25 MR. WATKINS: Objection to the form.</p>	<p>1 identify potential candidates for this role. I don't</p> <p>2 recall if they ever identified anyone for the role.</p> <p>3 Q. It's true that at this time you believed</p> <p>4 it would be beneficial for SCE&amp;G to hire/engage an</p> <p>5 additional resource with significant construction</p> <p>6 expertise to assist SCE&amp;G with evaluating the</p> <p>7 construction schedule and project status, correct?</p> <p>8 MR. WATKINS: Objection to form.</p> <p>9 MR. CHALLY: Same.</p> <p>10 THE WITNESS: Lonnie and I had talked</p> <p>11 about that. I agreed that it would be</p> <p>12 worthwhile pursuing that, and I turned that over</p> <p>13 to the construction team to make a final</p> <p>14 determination.</p> <p>15 BY MR. COX:</p> <p>16 Q. And it's true that you agreed that that</p> <p>17 would be a beneficial step for the project?</p> <p>18 MR. WATKINS: Same objection.</p> <p>19 MR. CHALLY: Object to form.</p> <p>20 THE WITNESS: I'll stand by what I said.</p> <p>21 I agreed we were ready to move forward with</p> <p>22 hiring an additional resource because Lonnie had</p> <p>23 indicated he thought that could be helpful.</p> <p>24 When Lonnie and I discussed it, I said, I don't</p> <p>25 think that would hurt.</p>

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<p>1 I turned it over to the construction team</p> <p>2 to make the final determination. I wasn't in a</p> <p>3 position to make a final decision about whether</p> <p>4 or not we needed a construction person. I</p> <p>5 agreed that an additional resource, you know,</p> <p>6 could assist us, and I turned it over to the</p> <p>7 construction team to make a final determination.</p> <p>8 BY MR. COX:</p> <p>9 Q. What resources are you aware of that SCE&amp;G</p> <p>10 ultimately hired or engaged to perform this work?</p> <p>11 MR. WATKINS: Objection.</p> <p>12 THE WITNESS: Well, I want to be clear.</p> <p>13 When I'm talking about resources here, I'm</p> <p>14 talking about one person. It says "an</p> <p>15 additional resource." I'm talking about an</p> <p>16 individual. I don't know if we hired someone as</p> <p>17 a result of this discussion.</p> <p>18 We hired people all along the way to add</p> <p>19 to -- "we," Steve Byrne, the construction</p> <p>20 team -- as necessary would add expertise to</p> <p>21 their team and hire the levels of expertise they</p> <p>22 believed was necessary.</p> <p>23 I was not engaged nor was I qualified to</p> <p>24 determine the exact type of people we needed on</p> <p>25 the project.</p>	<p>1 To the extent a project schedule changes,</p> <p>2 it wouldn't be unexpected that cost would change</p> <p>3 with that. But it's not clear here what he's</p> <p>4 referring to.</p> <p>5 BY MR. COX:</p> <p>6 Q. Is it fair to say that you don't feel that</p> <p>7 you were in a position to be able to assess whether</p> <p>8 the schedule was achievable?</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 MR. CHALLY: Same objection.</p> <p>11 THE WITNESS: Yeah. I personally was not</p> <p>12 in a position to evaluate that. That was --</p> <p>13 that's not my skill set.</p> <p>14 BY MR. COX:</p> <p>15 Q. When you received this e-mail from</p> <p>16 Mr. Carter, did it concern you that Mr. Carter was</p> <p>17 expressing the opinion that he did not believe that</p> <p>18 the schedule that Westinghouse was -- proposed was</p> <p>19 achievable?</p> <p>20 MR. WATKINS: Same objection.</p> <p>21 THE WITNESS: All I knew was he had</p> <p>22 expressed his concerns. I knew that a -- a team</p> <p>23 would go through and evaluate the results, and</p> <p>24 once we had completed an evaluation would be in</p> <p>25 a position -- the company would be in a position</p>
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<p>1 BY MR. COX:</p> <p>2 Q. If you could turn to Mr. Carter's response</p> <p>3 to you dated September 8th, bullet point number 2 on</p> <p>4 the response, Mr. Carter says, quote, My sense is</p> <p>5 that neither the owners nor the consortium have any</p> <p>6 real confidence that the proposed rollout schedule</p> <p>7 that the consortium shared with the owners on</p> <p>8 August 1st is achievable, end quote.</p> <p>9 At this point in time, did you have</p> <p>10 confidence that the schedule, the proposed schedule</p> <p>11 that Westinghouse had rolled out, was achievable?</p> <p>12 A. I had no basis of make -- excuse me,</p> <p>13 making that determination one way or the other.</p> <p>14 The information was very preliminary. To</p> <p>15 my knowledge, it had not been reviewed or analyzed by</p> <p>16 the team that Steve Byrne put in place on the site.</p> <p>17 I didn't have an opinion. It was a preliminary</p> <p>18 schedule at that point and related cost.</p> <p>19 Q. And when you refer to "schedule," you're</p> <p>20 referring to the schedule, the timeline schedule for</p> <p>21 construction, or the cost estimate?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: I don't know exactly what</p> <p>24 Lonnie's referring to here, when you're talking</p> <p>25 about a "new project schedule."</p>	<p>1 based on input from the nuclear team to form an</p> <p>2 opinion as to the schedule.</p> <p>3 BY MR. COX:</p> <p>4 Q. So you felt that the concern expressed by</p> <p>5 Mr. Carter was being addressed internally by SCE&amp;G?</p> <p>6 MR. WATKINS: Objection.</p> <p>7 THE WITNESS: I knew that the schedule</p> <p>8 would be reviewed by SCE&amp;G personnel and also</p> <p>9 Santee Cooper personnel who were on site. They</p> <p>10 normally participated in that process with us.</p> <p>11 BY MR. COX:</p> <p>12 Q. Did you ever respond to Mr. Carter and</p> <p>13 say, "Why do you feel that the schedule that the</p> <p>14 consortium's given -- giving us isn't achievable"?</p> <p>15 A. I don't recall responding to him.</p> <p>16 Q. Did it concern you that Mr. Carter had</p> <p>17 these opinions and you felt that the concern was</p> <p>18 being addressed by the -- the owners' team, or did it</p> <p>19 not concern you at all that he expressed these</p> <p>20 opinions?</p> <p>21 MR. WATKINS: Objection to the form of the</p> <p>22 question.</p> <p>23 THE WITNESS: Given that Santee Cooper was</p> <p>24 a 45 percent owner in the project, I never</p> <p>25 ignored Lonnie's concerns.</p>

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<p>1 The fact that he had raised that concern</p> <p>2 wasn't a surprise. We had gotten a new schedule</p> <p>3 after we had been through a protracted period</p> <p>4 where we had concerns about submodule</p> <p>5 deliveries. They had delivered us a new</p> <p>6 schedule.</p> <p>7 We had -- we had a right to understand and</p> <p>8 be concerned about what was in the schedule and</p> <p>9 did we believe they could achieve what they had</p> <p>10 provided to us.</p> <p>11 BY MR. COX:</p> <p>12 Q. What did -- what did SCE&amp;G's review of the</p> <p>13 schedule reveal, to your recollection?</p> <p>14 MR. WATKINS: Objection.</p> <p>15 MR. CHALLY: Same objection.</p> <p>16 THE WITNESS: What I recall from the</p> <p>17 results of the review was that, based on the</p> <p>18 information provided, that we had reviewed it</p> <p>19 with personnel on site. They had looked at</p> <p>20 the -- the team on site had looked at the basis</p> <p>21 for scheduling changes as well as cost</p> <p>22 associated with those schedules. They had --</p> <p>23 they had verified amounts associated with that.</p> <p>24 They had looked at the basis for the</p> <p>25 staffing and other issues related to the cost</p>	<p>1 Public Service Commission as a partner. They</p> <p>2 had to concur in what was provided in order for</p> <p>3 us to update the Commission. We wouldn't have</p> <p>4 updated them if we hadn't concurred that the</p> <p>5 information provided was the best available</p> <p>6 information we had.</p> <p>7 BY MR. COX:</p> <p>8 Q. So Santee Cooper had to provide approval</p> <p>9 to any submissions that the SCE&amp;G made to the</p> <p>10 Commission?</p> <p>11 A. They didn't have to provide -- they didn't</p> <p>12 have to provide approval of the submissions, but the</p> <p>13 information we would have included at this time in --</p> <p>14 I guess that would have been the 2015 update to the</p> <p>15 Commission, we had to negotiate a number of change</p> <p>16 orders and agree to certain changes.</p> <p>17 I don't know if they were just -- if they</p> <p>18 were amendments to the contract or they were just</p> <p>19 change orders that impacted cost.</p> <p>20 Anything over a million dollars, they had</p> <p>21 to sign off on. So they were clearly in agreement</p> <p>22 with what we had agreed to with the consortium at</p> <p>23 that time. They may have still had concerns, but</p> <p>24 they agreed to what we had, and that was the</p> <p>25 information we presented to the Commission.</p>
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<p>1 increases and concluded that that was the best</p> <p>2 information we had available based on the</p> <p>3 assumptions they had made in the schedule.</p> <p>4 In the review, that schedule was the best</p> <p>5 information we had available and the cost</p> <p>6 associated with it that the contractor under</p> <p>7 their responsibilities under the EPC contract</p> <p>8 had given us.</p> <p>9 BY MR. COX:</p> <p>10 Q. Did you go back and tell Mr. Carter about</p> <p>11 this result from the review?</p> <p>12 A. I don't think it required me to go back</p> <p>13 and tell Lonnie Carter. He had people on site that</p> <p>14 were close to the review and the evaluation. I'm</p> <p>15 confident he would have known what the team</p> <p>16 concluded.</p> <p>17 Q. Did you ever find out whether that review</p> <p>18 addressed his concern that the schedule that the</p> <p>19 consortium had proposed was not achievable?</p> <p>20 MR. WATKINS: Objection.</p> <p>21 MR. CHALLY: Same objection.</p> <p>22 THE WITNESS: I can't speak for</p> <p>23 Mr. Carter's thoughts. I know, in accepting the</p> <p>24 information from the consortium that they</p> <p>25 provided to us, that we ultimately took the</p>	<p>1 Q. So it's your testimony that in 2015, SCE&amp;G</p> <p>2 presented to Santee Cooper the information that SCE&amp;G</p> <p>3 planned to present to the Commission regarding</p> <p>4 schedule and cost, and Santee Cooper agreed that --</p> <p>5 that that was an appropriate submission to the</p> <p>6 Commission?</p> <p>7 A. I don't know that --</p> <p>8 MR. WATKINS: Objection to the form of the</p> <p>9 question.</p> <p>10 MR. CHALLY: Objection.</p> <p>11 THE WITNESS: I don't know that -- I don't</p> <p>12 know that we presented the -- gave them a</p> <p>13 presentation or gave them all the details of our</p> <p>14 filing to review, but they were certainly aware</p> <p>15 of what we had agreed to with the consortium or</p> <p>16 what we had accepted in terms of the schedule as</p> <p>17 being the best information available.</p> <p>18 There were still disputes at that time</p> <p>19 regarding who was responsible for paying for the</p> <p>20 cost, but in terms of the schedule and whether</p> <p>21 or not the cost would be spent and if that</p> <p>22 represented an accurate update of the best</p> <p>23 information available at the time, I believe we</p> <p>24 agreed to that.</p> <p>25</p>

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<p>1 BY MR. COX:</p> <p>2 Q. It's true that SCE&amp;G presented the</p> <p>3 consortium's cost estimate to the Commission in the</p> <p>4 2015 update docket, correct?</p> <p>5 A. We presented what the consortium provided</p> <p>6 to us as one of their obligations under the contract.</p> <p>7 And we reviewed that, evaluated it, and</p> <p>8 concluded that that was the best information</p> <p>9 available to reflect the actual work to be done, the</p> <p>10 time frame that it was expected to be done, and the</p> <p>11 cost associated with it. We did present that to the</p> <p>12 Commission.</p> <p>13 Q. And it's your testimony that Santee Cooper</p> <p>14 agreed with SCE&amp;G regarding that being the best</p> <p>15 information prior to SCE&amp;G submitting that</p> <p>16 information to the Commission?</p> <p>17 MR. WATKINS: Objection.</p> <p>18 THE WITNESS: It's my belief they were</p> <p>19 aware of it. They were aware of the schedule.</p> <p>20 They were aware of the change orders that they</p> <p>21 had signed off on as part of that.</p> <p>22 And I -- I suspect -- I don't have access</p> <p>23 to all of their documents, but I suspect those</p> <p>24 were the same disclosures they provided at the</p> <p>25 time we were presenting that to the Commission.</p>	<p>1 other than this team, correct?</p> <p>2 MR. WATKINS: Objection. Form.</p> <p>3 THE WITNESS: Again, I don't know who all</p> <p>4 was on the team. I know Steve Byrne put a team</p> <p>5 in place to review it. I just don't recall who</p> <p>6 all was on that team. This may be all of it; it</p> <p>7 may not be all of it. I just don't know.</p> <p>8 BY MR. COX:</p> <p>9 Q. To your knowledge, was it only one team</p> <p>10 that was put together for analyzing cost?</p> <p>11 A. I'm not aware of another team. That --</p> <p>12 the one team may have brought in expertise to assist</p> <p>13 them, but I'm only aware of one team.</p> <p>14 Q. Did you receive this presentation in</p> <p>15 October 2014?</p> <p>16 A. I -- I don't recall receiving this</p> <p>17 presentation.</p> <p>18 Q. There's a reference to an executive</p> <p>19 meeting on the first page.</p> <p>20 What is an "executive meeting"?</p> <p>21 MR. WATKINS: Objection to form.</p> <p>22 THE WITNESS: I don't know specifically.</p> <p>23 Certainly, a meeting that includes executives of</p> <p>24 the company. I don't know if that means SCE&amp;G,</p> <p>25 Santee, or it means SCE&amp;G and Santee and</p>
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<p>1 (Exhibit 7 was marked for identification.)</p> <p>2 BY MR. COX:</p> <p>3 Q. Mr. Marsh, we've had a -- labeled</p> <p>4 Exhibit 7 to your deposition a presentation labeled</p> <p>5 "EAC review team preliminary update, preparation for</p> <p>6 10-13-14 executive meeting," Bates-labeled</p> <p>7 SCANA_RP024674 through -686.</p> <p>8 Have you ever seen this document before?</p> <p>9 A. I have seen it in preparation for this</p> <p>10 deposition.</p> <p>11 Q. The individuals that are named on the</p> <p>12 front page of this document, were these the</p> <p>13 individuals that were part of SCE&amp;G's review team of</p> <p>14 the consortium's cost estimates in 2014?</p> <p>15 MR. CHALLY: Object to form.</p> <p>16 THE WITNESS: Again, I didn't put the team</p> <p>17 in place. I do recognize the names of these</p> <p>18 individuals who were part of the finance and</p> <p>19 administration and construction team on site.</p> <p>20 Their names appear here. I don't know if there</p> <p>21 were others involved, but they are certainly</p> <p>22 identified on the cover sheet.</p> <p>23 BY MR. COX:</p> <p>24 Q. You're not aware of any other teams that</p> <p>25 reviewed the consortium's cost estimates in 2014</p>	<p>1 Westinghouse. I don't know what executives</p> <p>2 they're referring to.</p> <p>3 BY MR. COX:</p> <p>4 Q. If you can turn to the third page of the</p> <p>5 document, the bottom right corner is -- last three</p> <p>6 numbers are 676.</p> <p>7 The third bullet point says, quote, EAC</p> <p>8 team anticipates a to-go PF closer to 1.40 and</p> <p>9 recalculated the cost, resulting in an additional</p> <p>10 increase of approximately 101 million. This is the</p> <p>11 cost impact of the to-go PF of 1.40 versus 1.15 and</p> <p>12 is not included in the consortium EAC.</p> <p>13 Did I read that correctly?</p> <p>14 A. Yes, you read that correctly.</p> <p>15 Q. What is a "PF," to your knowledge?</p> <p>16 A. I believe they're referring to performance</p> <p>17 factor.</p> <p>18 Q. And to your knowledge, what does that</p> <p>19 measure?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 THE WITNESS: I'm not a construction</p> <p>22 expert, again, but as described by Steve Byrne</p> <p>23 and other members on site at the project, it's a</p> <p>24 way to measure the efficiency of the work being</p> <p>25 performed, the actual time spent doing a task</p>

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<p>1 compared to what you would expect to spend doing</p> <p>2 that task or what you had forecast you would</p> <p>3 spend doing that task.</p> <p>4 BY MR. COX:</p> <p>5 Q. Do you recall the consortium having</p> <p>6 trouble meeting its goals on PF during the course of</p> <p>7 the project?</p> <p>8 A. I don't recall specific, you know, PFs</p> <p>9 throughout the project. I know we had addressed PF,</p> <p>10 performance factors, with the consortium. I know we</p> <p>11 disclosed it and risks associated with it in our</p> <p>12 testimony before the Commission.</p> <p>13 Q. Do you recall it being an area of concern?</p> <p>14 A. It was an area that we were watching on</p> <p>15 the project. We had identified that as a risk that</p> <p>16 could impact cost and schedule, and we disclosed that</p> <p>17 to the Commission.</p> <p>18 Q. Were you aware prior to the 2015</p> <p>19 Commission filing that the SCE&amp;G EAC team had</p> <p>20 anticipated a worse PF than the consortium had</p> <p>21 estimated in its cost analysis?</p> <p>22 MR. CHALLY: Object to form.</p> <p>23 MR. WATKINS: Same objection.</p> <p>24 THE WITNESS: Could you restate that?</p> <p>25</p>	<p>1 details and knowledge of the construction effort</p> <p>2 it would take to complete the plants, and we</p> <p>3 believed they were in the best position to say</p> <p>4 what they thought they could achieve as a</p> <p>5 performance factor.</p> <p>6 That was an estimate. Anything outside of</p> <p>7 that, in my mind, was speculative.</p> <p>8 I think what the -- what the team had done</p> <p>9 here was just a mathematical calculation. I</p> <p>10 don't know that they concluded that was the</p> <p>11 right number. This was -- it says here that</p> <p>12 this is a preliminary update back in 2014.</p> <p>13 I mean, we filed with the Commission in</p> <p>14 2015, so we had a lot of time expired between</p> <p>15 the time this team started doing its work and we</p> <p>16 concluded what we believed the appropriate</p> <p>17 schedule was to file with the Commission.</p> <p>18 BY MR. COX:</p> <p>19 Q. Isn't it true, though, that the SCE&amp;G EAC</p> <p>20 team estimated that the PF going forward would be</p> <p>21 1.40?</p> <p>22 MR. CHALLY: Object to form.</p> <p>23 MR. WATKINS: Objection.</p> <p>24 THE WITNESS: Again, my understanding is</p> <p>25 they made a mathematical calculation assuming</p>
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<p>1 BY MR. COX:</p> <p>2 Q. Sure. Were you aware prior to the SCE&amp;G's</p> <p>3 2014 Commission filing that the SCE&amp;G EAC team had</p> <p>4 estimated a going-forward PF factor that was worse</p> <p>5 than the factor that the consortium had estimated in</p> <p>6 its cost analysis?</p> <p>7 MR. CHALLY: Object to form.</p> <p>8 MR. WATKINS: Same objection.</p> <p>9 THE WITNESS: I don't recall all the</p> <p>10 details of the work of the EAC, but I recall</p> <p>11 they had done a mathematical calculation that</p> <p>12 said if they don't improve on the performance</p> <p>13 factor, here's a potential impact.</p> <p>14 I don't know -- it was not my</p> <p>15 understanding that was a complete study because</p> <p>16 I know in the -- in the estimate that was given</p> <p>17 to us by the consortium, they had increased</p> <p>18 productivity factors across the board from what</p> <p>19 was initially in the contract when we signed it</p> <p>20 in 2008. And they had offered different steps</p> <p>21 of mitigation they planned to take and actions</p> <p>22 they planned to take to achieve that.</p> <p>23 I mean, they were -- they were responsible</p> <p>24 for the contract. It was their responsibility</p> <p>25 to build the plants. They had all the -- the</p>	<p>1 nothing changed in the performance factor as a</p> <p>2 way to assess risk that was associated with the</p> <p>3 numbers that were given to us by the consortium.</p> <p>4 BY MR. COX:</p> <p>5 Q. So is it your testimony that you</p> <p>6 understood the EAC team to not be giving its best</p> <p>7 prediction on what the PF would be; that it was just</p> <p>8 using the historical number?</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 THE WITNESS: I can't speak to exactly</p> <p>11 what they did.</p> <p>12 My understanding was it was a mathematical</p> <p>13 extension assuming there were no changes in the</p> <p>14 PF. It was a financial calculation done by</p> <p>15 capable accountants at the site, but they were</p> <p>16 not the construction experts. They didn't have</p> <p>17 access to all the details. They were not the</p> <p>18 ones that were contractually obligated to</p> <p>19 complete the plant.</p> <p>20 We had information from the consortium</p> <p>21 about the PF. We had identified the PF as a</p> <p>22 risk that we disclosed to the Commission. We</p> <p>23 identified that they had increased the PF across</p> <p>24 the board in their estimate, the new estimate</p> <p>25 they had given us, with respect to cost and</p>



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<p>1 schedule. And we identified that clearly in 2 Steve Byrne's testimony before the Commission in 3 2015, the basis for that number and the risk 4 associated with it.</p> <p>5 We believed that would be a challenge, but 6 that was the best -- we concluded -- the nuclear 7 construction team concluded that was the best 8 information we had available because the 9 consortium had access to all the details and had 10 the best ability to project what they could 11 produce based on the revised schedule.</p> <p>12 BY MR. COX:</p> <p>13 Q. Your company, SCE&amp;G, did not reveal to the 14 Commission in 2015 that SCE&amp;G anticipated that the 15 going-forward PF would be 1.40, did it?</p> <p>16 MR. CHALLY: Object to form.</p> <p>17 MR. WATKINS: Same --</p> <p>18 THE WITNESS: I don't --</p> <p>19 MR. WATKINS: Same objection.</p> <p>20 THE WITNESS: I don't believe that SCE&amp;G 21 construction team concluded that. This -- this 22 is a preliminary update, which is -- well, we 23 got the estimate from Westinghouse in August. 24 And so this is one month after that, and they 25 were saying "anticipates closer to 1.4."</p>	<p>1 MR. WATKINS: Objection.</p> <p>2 MR. CHALLY: Same objection.</p> <p>3 THE WITNESS: Their goal, from my 4 understanding, was to validate the information 5 that was given to us and raise any areas of 6 concern for us to validate because, at the same 7 time, this was not a schedule we had accepted.</p> <p>8 We weren't saying, "That's the exact 9 number, and we agree to pay all that."</p> <p>10 We were in a dispute as to who was 11 supposed to pay what. And one of the disputes 12 we had was over the performance factor.</p> <p>13 So that would have been an area of concern 14 for us as we went through that review in how we 15 tried to identify who was going to pay for what.</p> <p>16 So the fact that they appear to have 17 talked about the performance factor in this 18 preliminary assessment is not a surprise to me.</p> <p>19 BY MR. COX:</p> <p>20 Q. Is it your understanding that the EAC 21 team, the SCE&amp;G EAC team, validated the consortium's 22 numbers and agreed that it was the best estimate of 23 anticipated costs?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 MR. WATKINS: Same objection.</p>
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<p>1 And my memory is that was a mathematical 2 extension just based on what had occurred to 3 date. It was no more complicated than that. It 4 wasn't a study. It wasn't with access to all 5 the additional information.</p> <p>6 And that -- this is what the team stated 7 here. I don't believe -- I don't conclude that 8 that's SCE&amp;G's position when it went to the 9 Commission. When we went to the Commission, it 10 was clearly our belief that the schedule we 11 provided, based on the updates from the 12 consortium, was the best available information 13 with the details and information we had 14 available at the time that this team reviewed 15 and did their best to validate.</p> <p>16 And Steve Byrne gave testimony. I believe 17 Ron Jones gave testimony. Carlette Walker gave 18 testimony -- all officers of the company -- that 19 they believed that was the best available 20 information.</p> <p>21 BY MR. COX:</p> <p>22 Q. So it's your understanding that the EAC 23 team that SCE&amp;G commissioned agreed that the 24 consortium's cost estimate was the best information 25 regarding anticipated cost to complete the project?</p>	<p>1 THE WITNESS: I don't know how they 2 finally presented their information, but I know 3 their information was considered by the 4 construction team on site as whole and with the 5 company's legal counsel and what was required to 6 be filed with the Commission.</p> <p>7 And that was the best available 8 information we had at the time. And it did not 9 include any speculative costs that were clearly 10 not allowed under the Commission's rules and 11 guidelines.</p> <p>12 BY MR. COX:</p> <p>13 Q. Were you aware in 2015 that SCE&amp;G -- the 14 EAC team had concluded that the likely cost to 15 complete the project would be greater than the 16 consortium's estimate?</p> <p>17 MR. CHALLY: Object to form.</p> <p>18 MR. WATKINS: Objection to the form.</p> <p>19 THE WITNESS: I'm not aware that they 20 concluded that.</p> <p>21 They may have done some analyses that 22 indicated some risks that could lead to higher 23 costs, but I don't recall them concluding that 24 based on the testimony we gave at the 25 Commission.</p>

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<p>1 BY MR. COX:</p> <p>2 Q. Do you recall any employees at SCE&amp;G</p> <p>3 expressing the opinion that the cost figure in the</p> <p>4 2015 filing should have been greater than the</p> <p>5 consortium's number?</p> <p>6 A. I don't recall an individual saying the</p> <p>7 number should be greater. I do recall when we were</p> <p>8 preparing testimony for the Commission, Ms. Carlette</p> <p>9 Walker was our accounting witness because she was a</p> <p>10 financial person on site. She did raise a question</p> <p>11 as to whether or not we should include an estimate of</p> <p>12 cost that could be -- an estimate of increases in</p> <p>13 cost based on no change in productivity factor.</p> <p>14 We had a discussion in a large room that</p> <p>15 included a lot of people from the construction team,</p> <p>16 primarily led by outside regulatory counsel. And at</p> <p>17 the end of that discussion, we concluded it would not</p> <p>18 be appropriate to include any additional schedules as</p> <p>19 part of Carlette Walker's testimony.</p> <p>20 But it was appropriate that we identify</p> <p>21 the issue related to productivity as a factor, a risk</p> <p>22 factor, that could have an impact on the schedule and</p> <p>23 the cost associated with the project.</p> <p>24 Q. Who made that decision not to include in</p> <p>25 the Commission filing the estimate of cost that would</p>	<p>1 can't say specifically. Others may or may not have</p> <p>2 been there, but that's what I remember possibly were</p> <p>3 there.</p> <p>4 Q. Which one of those attorneys expressed the</p> <p>5 opinion that the increased cost estimate did not need</p> <p>6 to be provided to the Commission?</p> <p>7 A. The --</p> <p>8 MR. CHALLY: So hold on here.</p> <p>9 The -- I'm going to object to the form of</p> <p>10 the question first.</p> <p>11 So this is, as you know, an issue related</p> <p>12 to -- an issue related to a dispute that we had</p> <p>13 previously in depositions related to this</p> <p>14 particular -- or to meetings of this sort.</p> <p>15 Rather than require that we get Judge</p> <p>16 Hayes on the line again, if we can reach the</p> <p>17 same agreement that we reached previously --</p> <p>18 which was that we are allowing questions on this</p> <p>19 topic to proceed on the basis of his ruling</p> <p>20 previously and that you-all don't consider us</p> <p>21 allowing Mr. Marsh to answer questions on the</p> <p>22 substance of this meeting as a waiver of our</p> <p>23 right to invoke privileges to anything else --</p> <p>24 we can allow Mr. Marsh to continue -- or we can</p> <p>25 allow Mr. Marsh to answer questions along those</p>
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<p>1 exist if there was no improvement in productivity?</p> <p>2 A. I don't recall who specifically made a</p> <p>3 decision that issues related to testimony are</p> <p>4 discussed openly in that process, the way we go about</p> <p>5 reviewing and preparing testimony.</p> <p>6 I recall the discussion being led by legal</p> <p>7 counsel in the room -- that we ultimately concluded</p> <p>8 in the room based on legal -- legal's participation</p> <p>9 that the appropriate schedule was the one that had</p> <p>10 been provided by the consortium, but that we identify</p> <p>11 risks associated with that number based on our</p> <p>12 knowledge of the impact that could have on overall</p> <p>13 completion dates and cost.</p> <p>14 Q. What legal counsel were present in that</p> <p>15 discussion?</p> <p>16 A. I recall Belton Ziegler being in the room.</p> <p>17 Mitch Willoughby, who was also one of our outside</p> <p>18 regulatory attorneys, may have been there. I don't</p> <p>19 specifically recall. Chad Burgess, who was an inside</p> <p>20 regulatory counsel. And Matt Gissendanner.</p> <p>21 That was the legal team that worked with</p> <p>22 us on preparing testimony and making decisions</p> <p>23 regarding filings with the Commission.</p> <p>24 I don't recall if all of those were in the</p> <p>25 room. I do remember Belton being in the room. I</p>	<p>1 lines.</p> <p>2 MR. COX: I will agree that your</p> <p>3 willingness to allow the witness to answer</p> <p>4 questions about this meeting does not in itself</p> <p>5 constitute a waiver of any privilege.</p> <p>6 I am concerned that -- based on the</p> <p>7 information that I've learned in depositions,</p> <p>8 that the company is waiving the privilege for</p> <p>9 other reasons and to the extent that it's</p> <p>10 relying on the advice of counsel in support of</p> <p>11 this decision.</p> <p>12 MR. CHALLY: I understand. We can have</p> <p>13 that fight at some other point.</p> <p>14 Does anyone else in the room have an issue</p> <p>15 with that general agreement that we've reached</p> <p>16 with the ORS?</p> <p>17 Hearing none, have at it.</p> <p>18 MR. WATKINS: Okay. So I'll object to the</p> <p>19 form of the question.</p> <p>20 I also -- we weren't here for any of these</p> <p>21 previous agreements, so we might need to inform</p> <p>22 the witness about what conversation with counsel</p> <p>23 he is and is not free to speak about -- is</p> <p>24 probably not.</p> <p>25 MR. CHALLY: He's free to testify as to</p>

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<p>1 the substance of the meetings that he is</p> <p>2 referring to, meetings -- meetings where</p> <p>3 testimony associated with the 2015 PSC filings</p> <p>4 were discussed.</p> <p>5 MR. WATKINS: Does that make sense to you?</p> <p>6 THE WITNESS: I believe so.</p> <p>7 MR. WATKINS: Okay.</p> <p>8 BY MR. COX:</p> <p>9 Q. So maybe I should repeat the question?</p> <p>10 A. You may need to ask me the question again.</p> <p>11 Q. Which attorneys that were present at that</p> <p>12 meeting expressed the opinion that SCE&amp;G did not need</p> <p>13 to reveal to the Commission an estimate of cost that</p> <p>14 would -- would exist if the productivity did not</p> <p>15 improve?</p> <p>16 MR. CHALLY: Object to the form of the</p> <p>17 question.</p> <p>18 MR. WATKINS: Same objection as to form.</p> <p>19 THE WITNESS: I don't recall any</p> <p>20 particular attorney coming to that conclusion.</p> <p>21 I recall the attorneys that were</p> <p>22 present -- principally Belton Ziegler -- leading</p> <p>23 that discussion. And at the end of the</p> <p>24 discussion, we concluded that -- the team led by</p> <p>25 legal counsel concluded that it would not be</p>	<p>1 as evidence in the -- in the hearing.</p> <p>2 BY MR. COX:</p> <p>3 Q. So is it fair to say that at this meeting,</p> <p>4 she raised a concern about the issue, the attorneys</p> <p>5 explained why they were doing, what the -- what they</p> <p>6 were planning to do, and that basically resolved the</p> <p>7 concern?</p> <p>8 MR. CHALLY: Object to form.</p> <p>9 MR. WATKINS: Yeah. I object to the form</p> <p>10 of that question.</p> <p>11 THE WITNESS: This was a very open process</p> <p>12 where we reviewed testimony. Generally, there</p> <p>13 were a number of people -- a large group of</p> <p>14 people involved around the company in drafting</p> <p>15 testimony. It typically included all of the</p> <p>16 witnesses that were involved in the process and</p> <p>17 people that would support their testimony.</p> <p>18 It was not unusual for anybody to raise a</p> <p>19 question about something that was in testimony,</p> <p>20 or should we add something? Is that not</p> <p>21 accurate? Do we need to change it?</p> <p>22 I mean, this was a very open process, and</p> <p>23 our goal was to make sure the testimony was true</p> <p>24 and accurate.</p> <p>25 So the fact that Carlette had raised this</p>
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<p>1 appropriate to include any additional schedules</p> <p>2 in Carlette's testimony.</p> <p>3 BY MR. COX:</p> <p>4 Q. And did they explain why they did not</p> <p>5 believe it would be appropriate to do so?</p> <p>6 A. They may have. I just don't recall all</p> <p>7 the details of that discussion.</p> <p>8 MR. WATKINS: I object to the form of that</p> <p>9 question.</p> <p>10 BY MR. COX:</p> <p>11 Q. Do you recall any discussion about it</p> <p>12 creating a contingency cost that the Commission could</p> <p>13 not approve?</p> <p>14 A. Not specifically, no.</p> <p>15 Q. Did anyone at the meeting voice any</p> <p>16 disagreement with the advice that counsel provided?</p> <p>17 MR. WATKINS: Objection to form.</p> <p>18 MR. CHALLY: Same objection.</p> <p>19 THE WITNESS: My memory of the meeting was</p> <p>20 once the discussion was held, we agreed -- the</p> <p>21 team in the room, again, led by legal counsel,</p> <p>22 concluded that nothing else additional needed to</p> <p>23 be added to the testimony.</p> <p>24 And there was -- there was nothing added</p> <p>25 to Ms. Walker's testimony, and she presented it</p>	<p>1 issue didn't stand out to me as something that,</p> <p>2 you know, I locked away in my memory other than</p> <p>3 we had a discussion about it led by the</p> <p>4 attorneys that were in the room -- as I said,</p> <p>5 what I recall is Belton Ziegler -- and at the</p> <p>6 end of that discussion, a decision was reached</p> <p>7 that we would not include an additional</p> <p>8 schedule.</p> <p>9 In my mind, the issue was resolved at that</p> <p>10 point. I don't -- I don't recall that people</p> <p>11 left the room upset or felt like that wasn't the</p> <p>12 right decision. I mean, it was like any other</p> <p>13 testimony meeting. We raised questions, we</p> <p>14 edited testimony, and we did our best to make</p> <p>15 sure that the documents were true and accurate.</p> <p>16 BY MR. COX:</p> <p>17 Q. Do you know who made the initial decision</p> <p>18 to draft up the filing with the Commission -- I'm</p> <p>19 sorry, the consortium's cost numbers included prior</p> <p>20 to that meeting?</p> <p>21 MR. WATKINS: Objection.</p> <p>22 THE WITNESS: I don't recall. I mean, I</p> <p>23 just don't recall the process whereby that was</p> <p>24 determined.</p> <p>25</p>

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<p>1 BY MR. COX:</p> <p>2 Q. It wasn't you, correct?</p> <p>3 A. I don't recall being in a meeting to</p> <p>4 discuss it.</p> <p>5 The testimony -- not the testimony -- but</p> <p>6 someone would typically update me on the filing</p> <p>7 before it was made. As the CEO, I wanted to know</p> <p>8 when we made a filing with the Commission, you know,</p> <p>9 generally what was in it.</p> <p>10 This was a Base Load Review Act update. I</p> <p>11 wanted to make sure I understood what was in there in</p> <p>12 case I was asked about it publicly, even though we</p> <p>13 were doing a -- we did a press release every time we</p> <p>14 made one of those filings.</p> <p>15 But I don't recall being in the decision</p> <p>16 process to include the numbers from the consortium.</p> <p>17 I just recall from going through the testimony</p> <p>18 preparation that that -- that we concluded that was</p> <p>19 the best information available.</p> <p>20 Q. Do you recall any other times where that</p> <p>21 question was made -- was raised about what cost</p> <p>22 number to include in the 2015 PSC filing other than</p> <p>23 that meeting with the attorneys and Ms. Walker?</p> <p>24 A. That's the only instance I can recall</p> <p>25 where someone raised a question as to what would be</p>	<p>1 Those were the people that were typically</p> <p>2 in those meetings, and they may have had supporting</p> <p>3 personnel from their areas of expertise around the</p> <p>4 company as we were going through particular aspects</p> <p>5 of the testimony. But it was a large room, not</p> <p>6 unlike this room, with a lot of people around the</p> <p>7 table reading the testimony line by line.</p> <p>8 If something caught our attention, we</p> <p>9 would stop and have a discussion, make edits as we</p> <p>10 considered necessary. This was a very iterative</p> <p>11 process. We went through that at least two or three</p> <p>12 times before testimony was filed.</p> <p>13 Q. Do you know who Kenneth Browne is?</p> <p>14 A. I know Kenneth. He used to work for</p> <p>15 Santee Cooper. When he retired from Santee Cooper,</p> <p>16 he came to work for us on site at the nuclear plant.</p> <p>17 I know Ken. I've known him for a number of years.</p> <p>18 Q. Did you know at the time you worked with</p> <p>19 him that he was an engineer?</p> <p>20 A. I don't recall knowing that.</p> <p>21 Q. Was he present at that meeting in which</p> <p>22 Ms. Walker raised the question about which cost</p> <p>23 figure to include?</p> <p>24 A. He may or he may not have been in the</p> <p>25 meeting. I don't remember him being there.</p>
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<p>1 appropriate.</p> <p>2 Q. Other than the attorneys you mentioned,</p> <p>3 yourself, and Ms. Walker, who else was present in</p> <p>4 that meeting?</p> <p>5 A. I'll do my best to remember. I could</p> <p>6 leave somebody out. If I had more time to think</p> <p>7 about it, I might think about more. And I -- and I</p> <p>8 have to go based on my history who was typically in</p> <p>9 those meetings.</p> <p>10 The people providing testimony were me,</p> <p>11 Steve Byrne, Carlette Walker, Ron Jones, and, I</p> <p>12 believe, Joe Lynch. Joe Lynch may or may not have</p> <p>13 been in there.</p> <p>14 Byron Henson from the Regulatory</p> <p>15 Department. Someone from the site. Kevin Kochems,</p> <p>16 who worked for Carlette Walker at the time, may have</p> <p>17 been there. We may have had someone from corporate</p> <p>18 communications.</p> <p>19 Chad Burgess. I'm drawing a blank on</p> <p>20 his -- his assistant now. I'm sitting here looking</p> <p>21 at him, and I can't recall his name. I gave it to</p> <p>22 you a minute ago. His assistant was in there.</p> <p>23 Belton Ziegler. Mitch Willoughby.</p> <p>24 Al Bynum might have been in there, who is from our</p> <p>25 legal department.</p>	<p>1 Q. Did that meeting get heated in any way,</p> <p>2 voices raised or yelling?</p> <p>3 MR. WATKINS: Objection to form.</p> <p>4 THE WITNESS: I don't recall anybody in</p> <p>5 the meeting yelling. I don't recall.</p> <p>6 I mean, you have to understand the process</p> <p>7 we go through. We were a very open and frank</p> <p>8 group, and people would state their opinions.</p> <p>9 Sometimes it was more emphatically than others,</p> <p>10 and we would have a robust discussion about, you</p> <p>11 know, what we thought was appropriate.</p> <p>12 I don't remember this one rising to a</p> <p>13 level above what I was accustomed to seeing when</p> <p>14 we debated issues or tried to delve into issues</p> <p>15 to understand what was the most accurate</p> <p>16 information to include in testimony.</p> <p>17 BY MR. COX:</p> <p>18 Q. Do you recall anyone pounding any tables</p> <p>19 at that meeting?</p> <p>20 A. I do not.</p> <p>21 Q. Once the attorneys explained that they</p> <p>22 felt that the consortium's numbers were the right</p> <p>23 numbers to include in the PSC filing, do you recall</p> <p>24 how Ms. Walker responded to that information?</p> <p>25 MR. CHALLY: Object to the form.</p>

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<p>1 MR. WATKINS: Objection to the form of the</p> <p>2 question.</p> <p>3 THE WITNESS: I don't recall any specific</p> <p>4 response from Ms. Walker.</p> <p>5 BY MR. COX:</p> <p>6 Q. Did each of the individuals who were</p> <p>7 submitting prefiled testimony with the Commission</p> <p>8 have additional meetings with counsel outside of the</p> <p>9 joint meeting?</p> <p>10 MR. CHALLY: Object to form.</p> <p>11 MR. WATKINS: Objection to the form of the</p> <p>12 question.</p> <p>13 THE WITNESS: I -- I don't know.</p> <p>14 Typically -- well, there were attorneys</p> <p>15 assigned to different witnesses for testimony</p> <p>16 preparation. To the extent they met outside of</p> <p>17 that meeting room, I wouldn't have been aware of</p> <p>18 that.</p> <p>19 I know Belton Ziegler worked on my</p> <p>20 testimony. And generally, I recall for this</p> <p>21 case, he came to my office and we talked about</p> <p>22 testimony he drafted. And then we all provided</p> <p>23 input in the meeting.</p> <p>24 I don't recall any meetings outside of</p> <p>25 that to prepare the testimony.</p>	<p>1 hearing.</p> <p>2 Q. Who drafted your prefile testimony?</p> <p>3 MR. WATKINS: Objection.</p> <p>4 MR. CHALLY: Same objection.</p> <p>5 THE WITNESS: In 2015, for the hearing we</p> <p>6 filed to update the schedule, that was done by</p> <p>7 Belton Ziegler.</p> <p>8 BY MR. COX:</p> <p>9 Q. So he would draft the testimony, and you</p> <p>10 would review it before it was filed; is that correct?</p> <p>11 MR. CHALLY: Object to the form.</p> <p>12 MR. WATKINS: Same objection.</p> <p>13 THE WITNESS: Let me try again. I thought</p> <p>14 I described that earlier.</p> <p>15 He would draft the testimony. It would</p> <p>16 then be reviewed in the large room with the</p> <p>17 large conference table with the variety of</p> <p>18 individuals around that table.</p> <p>19 Everybody would review it, not just me.</p> <p>20 Certainly I was in there, and I would review it.</p> <p>21 And everybody had the ability to make edits, to</p> <p>22 challenge what I said, to make sure I had said</p> <p>23 it correctly, as I would have that opportunity</p> <p>24 with others' testimony based on knowledge I</p> <p>25 might have.</p>
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<p>1 BY MR. COX:</p> <p>2 Q. That meeting you had with Belton Ziegler</p> <p>3 regarding your 2015 testimony, was it just you two,</p> <p>4 or was anyone else present?</p> <p>5 A. It was just the two of us.</p> <p>6 Q. Would you have a meeting with him</p> <p>7 before -- before submitting prefiled testimony as</p> <p>8 well as testifying at a hearing?</p> <p>9 A. Well, let me be clear about the process.</p> <p>10 When we started drafting testimony,</p> <p>11 Mr. Ziegler would meet with me to get my thoughts and</p> <p>12 ideas or concerns or issues that I thought should be</p> <p>13 included in my testimony before he drafted it.</p> <p>14 He would then prepare an initial draft</p> <p>15 that would be made available to the whole team to</p> <p>16 review it in the room I talked about earlier. We</p> <p>17 call it the "situation room" where we would all sit</p> <p>18 around a table and review each other's testimony.</p> <p>19 Once the testimony was filed, before the</p> <p>20 case was actually heard, we would again gather in</p> <p>21 that room -- the people that were going to provide,</p> <p>22 you know, direct testimony for the case and others to</p> <p>23 the extent they supported information that was in the</p> <p>24 testimony -- and talk about our -- our prefiled</p> <p>25 testimony and the process of going through the</p>	<p>1 You would go through that process two or</p> <p>2 three times depending on what was in the</p> <p>3 testimony and how lengthy it was and the issues</p> <p>4 that needed to be discussed.</p> <p>5 Once it was completed, I would take my</p> <p>6 testimony, sit down, read it myself to make sure</p> <p>7 it was consistent with what I believed to be</p> <p>8 accurate information based on what I knew at the</p> <p>9 time, and I would give my -- my final sign-off</p> <p>10 on the testimony before it was filed.</p> <p>11 BY MR. COX:</p> <p>12 Q. Did you ever propose any changes to your</p> <p>13 testimony prior to it being filed?</p> <p>14 MR. WATKINS: Objection to form.</p> <p>15 THE WITNESS: Certainly. Sometimes they</p> <p>16 were minor edits, grammatical errors. Sometimes</p> <p>17 it was to clarify information that may have been</p> <p>18 included in the testimony or I thought we needed</p> <p>19 to add something to make it clearer.</p> <p>20 But it was a very iterative process.</p> <p>21 BY MR. COX:</p> <p>22 Q. Were you ever told that you couldn't make</p> <p>23 changes to your testimony?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 THE WITNESS: No, I was never told that.</p>

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<p>1 (Exhibit 8 was marked for identification.)</p> <p>2 BY MR. COX:</p> <p>3 Q. This is Number 8. Mr. Marsh, I've handed</p> <p>4 to you --</p> <p>5 THE WITNESS: Take a break?</p> <p>6 MR. COX: Yeah. We can.</p> <p>7 Go off the record.</p> <p>8 VIDEOGRAPHER: The time is 2:33 p.m., and</p> <p>9 we are off the record.</p> <p>10 (A recess transpired from 2:33 p.m. until</p> <p>11 2:45 p.m.)</p> <p>12 VIDEOGRAPHER: The time is 2:45 p.m., and</p> <p>13 we're back on record.</p> <p>14 BY MR. COX:</p> <p>15 Q. Mr. Marsh, we're back on the record. And</p> <p>16 before the break, I had labeled Exhibit 8 to your</p> <p>17 deposition.</p> <p>18 Is this a copy of the testimony that you</p> <p>19 provided to the Commission in the 2015 update docket?</p> <p>20 A. It appears to be my testimony, yes.</p> <p>21 Q. And, again, you knew at the time that you</p> <p>22 were giving this testimony under oath, correct?</p> <p>23 A. I'm not clear -- what did you ask me?</p> <p>24 Q. You knew that at the time you were</p> <p>25 testifying that you were providing this testimony</p>	<p>1 the updated schedules in the sense that it recognizes</p> <p>2 them to be the most accurate and dependable</p> <p>3 statements available of the anticipated construction</p> <p>4 schedule for completing the units and the anticipated</p> <p>5 schedule of capital costs for completing the units."</p> <p>6 Q. Could you turn to the next page, 97?</p> <p>7 A. All right.</p> <p>8 Q. Could you read the sentence that starts on</p> <p>9 line 10?</p> <p>10 A. "However, for purposes of the EPC</p> <p>11 contract, we are concerned that WEC/CB&amp;I" -- "WEC"</p> <p>12 meaning Westinghouse -- "may seek to take the</p> <p>13 term, quote, approved, close quote, as applied to</p> <p>14 these schedules to mean that SCE&amp;G has approved</p> <p>15 substituting these schedules for the schedules</p> <p>16 previously approved in the EPC contract, thereby</p> <p>17 excusing WEC/CB&amp;I from contractual obligations,</p> <p>18 penalties, claims, and possible damages from failing</p> <p>19 to meet those schedules."</p> <p>20 Q. Can you explain what you meant by this</p> <p>21 sentence?</p> <p>22 MR. WATKINS: Objection to the form of the</p> <p>23 question.</p> <p>24 THE WITNESS: Well, first of all, I think</p> <p>25 you'd have to look at my testimony in its</p>
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<p>1 under oath?</p> <p>2 A. Yes, I did.</p> <p>3 Q. On page 50 of your testimony --</p> <p>4 A. Is that 50 of my numbered pages or 50 of</p> <p>5 your numbered pages?</p> <p>6 Q. 50 at the top.</p> <p>7 A. Okay. All right.</p> <p>8 Q. On line 21, there's a sentence that</p> <p>9 starts, "We deal."</p> <p>10 Can you read that sentence for the record?</p> <p>11 A. "We deal with the issues that arise with</p> <p>12 Westinghouse aggressively and at the highest levels."</p> <p>13 Q. And if you could turn to page 94, again</p> <p>14 using the top number.</p> <p>15 A. All right.</p> <p>16 Q. Could you read the sentence that starts on</p> <p>17 line 17?</p> <p>18 A. "The current schedules reflect the best</p> <p>19 information available about the anticipated cost and</p> <p>20 construction timetables for completing the project."</p> <p>21 Q. Could you turn to page 96?</p> <p>22 A. All right.</p> <p>23 Q. Could you read the sentence that starts on</p> <p>24 line 9?</p> <p>25 A. "SCE&amp;G has, quote, approved, close quote,</p>	<p>1 entirety to address what I was talking about</p> <p>2 with respect to the schedule.</p> <p>3 What I recall I was talking to here --</p> <p>4 talking about here was we presented a schedule</p> <p>5 to the Commission that, in our opinion, was the</p> <p>6 best available data as to completion dates, the</p> <p>7 construction schedule, and the associated cost</p> <p>8 with completing the projects based on the</p> <p>9 information provided to us by the consortium and</p> <p>10 reviewed by our nuclear team on site. We</p> <p>11 believed that to be the best available</p> <p>12 information.</p> <p>13 My understanding at the time is that's</p> <p>14 what was required under the BLRA rules and</p> <p>15 regulations. If we believe we had a change, we</p> <p>16 would provide that to the Commission. And</p> <p>17 that's what we're doing here.</p> <p>18 We had not approved the schedule to</p> <p>19 Westinghouse in the sense that we were going to</p> <p>20 pay all of the costs. We recognized it as the</p> <p>21 best available schedule and associated costs.</p> <p>22 So in our mind, in our evaluation, we</p> <p>23 believed that the schedule was the most accurate</p> <p>24 information we had available, that the cost was</p> <p>25 the most accurate cost associated with</p>

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<p>1 completing that schedule, and that would be the 2 cost it took to complete the units. And that's 3 what we included in our filing with the 4 Commission. 5 What we're saying here is we wanted to 6 make sure the consortium, WEC and CB&amp;I, didn't 7 assume we had approved the schedule from the 8 sense that we were going to pay all of those 9 costs. 10 There were disputes related to those costs 11 which we described to the Commission in 12 testimony given by me, Steve Byrne, Carlette 13 Walker, and others that may have testified to it 14 in front of the Commission. 15 So we didn't want to send a message to 16 Westinghouse, "Just assume you're going to get 17 all these costs, if they're approved." That's 18 why we put it in quotes: "by the Commission." 19 BY MR. COX: 20 Q. If SCE&amp;G had presented the Commission with 21 a higher number of cost based on a less optimistic 22 productivity factor that -- SCE&amp;G still could have 23 said, "We're not going to pay these additional costs 24 above the productivity factor that Westinghouse says 25 it can meet."</p>	<p>1 the hook and encourage them to continue to seek 2 ways to stay on the project schedule by just 3 telling them, you know, "Oh, we're going to give 4 you a higher productivity factor. Don't worry 5 about that." 6 We wanted them to worry about that. They 7 were contractually obligated to deliver these 8 plants on the dates they committed to delivering 9 those plants. 10 And those dates they gave us in the update 11 of August of '14 were the latest available dates 12 based on their evaluation of the schedule that 13 they had available. 14 And that's what we presented to the 15 Commission, was their schedule. 16 BY MR. COX: 17 Q. I want to follow up on your comment there 18 about not letting the consortium off the hook with 19 respect to the productivity factor issue. 20 If SCE&amp;G in this filing is telling the 21 Commission, "We don't think we have to pay all the 22 anticipated costs that are included in this cost 23 filing," then how would it be letting the consortium 24 off the hook to say -- to tell the Commission, "Hey, 25 we think the costs are going to be even greater than</p>
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<p>1 MR. CHALLY: Object to form. 2 MR. WATKINS: Objection to the form of the 3 question. 4 THE WITNESS: It was our obligation to 5 present project costs and related project 6 schedule to the Commission based on the best 7 information we had available at the time. 8 We believed that the information provided 9 to us by the consortium that had been reviewed 10 by our nuclear team on site was the best 11 available information. 12 We -- we provided that. However, we 13 identified the risk -- very clearly -- that 14 productivity factors were an issue. 15 We identified that, in coming up with its 16 estimate, Westinghouse had not only raised its 17 productivity factor, which was included in the 18 estimate, but also that we determined that that 19 was still a risk to the project, a serious risk 20 that we highlighted to the Commission, and said 21 if they don't address this issue, it could have 22 an impact on cost and schedule. 23 I believe Mr. Byrne testified in 24 cross-examination that we didn't believe it was 25 appropriate to, you know, let the consortium off</p>	<p>1 what the consortium expects, but we don't think we 2 should have to pay for any of those extra costs as 3 well?" 4 MR. WATKINS: Objection to form. 5 THE WITNESS: The cost we presented to the 6 Commission was what the consortium expected to 7 spend. That was -- that was their estimate that 8 had been reviewed by our construction team on 9 site. 10 We knew there were risks associated with 11 that schedule; talked -- I mentioned earlier, 12 productivity factor. We highlighted that risk. 13 We also highlighted to the Commission that there 14 were disputes, and we defined for the Commission 15 how we included dollars in our filing where we 16 thought disputes could be resolved in our favor, 17 based on our interpretation of the contract. 18 And that's what we included in the filing. 19 We didn't know the resolution of those 20 disputes, whether they were going to be resolved 21 through negotiations or we would potentially 22 have to go to litigation. 23 BY MR. COX: 24 Q. Is it correct to say, though, that SCE&amp;G 25 was telling the Commission in this filing, "We don't</p>

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<p>1 think we have to pay the consortium for all of the 2 anticipated costs to complete this project that we're 3 presenting in this docket?"</p> <p>4 MR. WATKINS: Objection to the form of the 5 question.</p> <p>6 THE WITNESS: My memory and understanding 7 of the filing is that we didn't include costs in 8 the filing that we believed were -- under the 9 contract, we could exclude from payment at that 10 time.</p> <p>11 BY MR. COX:</p> <p>12 Q. Let's turn to page 141 of your testimony. 13 So you're asked a question on line 3 to 14 line 7. I'll read that:</p> <p>15 "Now, Mr. Marsh, as you relayed in your 16 testimony, the company is currently in a dispute with 17 the consortium, the Westinghouse consortium, with 18 regard to who bears the cost for a number of elements 19 in the capital cost of the proposed Unit 2 and Unit 3 20 reactors, correct?"</p> <p>21 And can you go ahead and read, Mr. Marsh, 22 the answer on lines 8 to 13?</p> <p>23 A. "That's right. The numbers that we 24 presented in the filing before the Commission today 25 represent the best estimate of the cost to complete</p>	<p>1 BY MR. COX:</p> <p>2 Q. This is Chart A labeled "Summary of cost 3 adjustments." And in the right hand column, there's 4 a column labeled "Total cost." And there's a row 5 halfway down labeled "Total EPC cost adjustment."</p> <p>6 If you -- do you see that row, Mr. Marsh?</p> <p>7 A. Yes, I do.</p> <p>8 Q. And if you take that to the far right, the 9 total Cost -- EPC cost adjustment is \$453.1 million, 10 correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And that was the figure that the SCE&amp;G 13 presented to the Commission in this filing as the 14 cost adjustment for the EPC cost, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And then the rows below "Total EPC cost 17 adjustment" includes a row labeled "Total owners' 18 cost adjustment."</p> <p>19 Do you see that row?</p> <p>20 A. I do.</p> <p>21 Q. And the total owners' cost adjustment 22 projected by SCE&amp;G was 245.1 million; is that right?</p> <p>23 MR. WATKINS: Objection to form.</p> <p>24 THE WITNESS: That's the number that 25 appears in the schedule. That's correct.</p>
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<p>1 the plant at this time, but do reflect -- we have 2 noted in my testimony, and others -- that there are 3 disputes related to certain costs included in those 4 amounts."</p> <p>5 Q. So, Mr. Marsh, isn't it correct to say 6 that SCE&amp;G was saying in this filing that even though 7 there's a certain best estimate of the cost to 8 complete the plants, SCE&amp;G is not responsible for 9 paying all of those costs?</p> <p>10 MR. WATKINS: Objection to the form of the 11 question.</p> <p>12 THE WITNESS: I think what I had said here 13 that we had outlined that there are disputes 14 related to certain costs included in those 15 amounts. And I believe description of those 16 disputes and what was included in the filing 17 were put on the record by Mr. Byrne and Carlette 18 Walker, Steve Byrne and Carlette Walker, in 19 their direct testimony in this hearing.</p> <p>20 BY MR. COX:</p> <p>21 Q. So let's turn to page 60 of your 22 testimony. So we'll go back to page 60.</p> <p>23 MR. WATKINS: 60 at the top?</p> <p>24 MR. COX: Correct.</p> <p>25</p>	<p>1 BY MR. COX:</p> <p>2 Q. And then the "Total adjustment with 3 liquidated damages" is \$698.2 million; is that 4 correct?</p> <p>5 A. That is correct. That's included in the 6 schedule.</p> <p>7 Q. Was it SCE&amp;G's position that it was 8 responsible to pay all of these costs?</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 THE WITNESS: That was the cost we had 11 determined based on the updated schedule 12 provided by the consortium as to what it would 13 take to complete the project and the costs 14 associated with that.</p> <p>15 The total EPC cost would be the cost 16 associated with the consortium's completion of 17 the project.</p> <p>18 The additional of the owners' cost would 19 be cost that would be incurred by the owners -- 20 in this case, SCE&amp;G in this filing -- as a 21 result of the delays in the delivery dates of 22 the two new units.</p> <p>23 So that's what comprised the total 24 adjustment. We believed that was our best 25 estimate of cost based on what they had provided</p>



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<p>1 to us.</p> <p>2 Now, we had disputes related to some of</p> <p>3 that cost that we outlined in our testimony to</p> <p>4 the Commission.</p> <p>5 So in that 698 million, that did include</p> <p>6 dollars that were subject to dispute that had</p> <p>7 not yet been resolved.</p> <p>8 BY MR. COX:</p> <p>9 Q. And SCE&amp;G's position in that dispute was</p> <p>10 that it shouldn't have to pay the consortium for</p> <p>11 those dollars?</p> <p>12 MR. WATKINS: Objection.</p> <p>13 BY MR. COX:</p> <p>14 Q. Or shouldn't pay the consortium those</p> <p>15 dollars, correct?</p> <p>16 A. Well, there were issues -- I'm not an</p> <p>17 attorney, so I can't define all of the issues related</p> <p>18 in the disputes.</p> <p>19 But there were dollars that we disputed</p> <p>20 that we should not be responsible for paying.</p> <p>21 Q. Within those 698.2 million, correct?</p> <p>22 A. Within that 698 million that were not</p> <p>23 resolved, that we described to the Commission and</p> <p>24 explained what gave rise to those costs, and that</p> <p>25 they were disputed dollars that we expected to be</p>	<p>1 698 million were known and measurable based on</p> <p>2 the estimate that had been provided to us by the</p> <p>3 consortium on what they believed it would take</p> <p>4 to complete the project.</p> <p>5 There were no other projections based on,</p> <p>6 you know, known and measurable information that,</p> <p>7 you know, could have been included in that</p> <p>8 number.</p> <p>9 (Exhibit 9 was marked for identification.)</p> <p>10 BY MR. COX:</p> <p>11 Q. Mr. Marsh, I've handed you -- or had</p> <p>12 handed to you a document labeled Exhibit 9 to your</p> <p>13 deposition.</p> <p>14 This is a spreadsheet that was produced by</p> <p>15 Carlette Walker in response to a subpoena from ORS in</p> <p>16 this action. It's not Bates-numbered.</p> <p>17 And it includes a block -- feel free to</p> <p>18 review this document.</p> <p>19 There's a block on the chart in the bottom</p> <p>20 left-hand corner called "February 2015 PSC update</p> <p>21 filing SCE&amp;G cost '07 dollars, millions."</p> <p>22 Do you see that block?</p> <p>23 A. I do see that block.</p> <p>24 Q. At the time that the company -- that SCE&amp;G</p> <p>25 was preparing its 2015 PSC filing, had you reviewed</p>
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<p>1 resolved in the future.</p> <p>2 Q. So SCE&amp;G was telling the Commission that</p> <p>3 it's not letting the consortium off the hook for</p> <p>4 those costs, correct?</p> <p>5 MR. WATKINS: Objection.</p> <p>6 THE WITNESS: Well, let me try this again.</p> <p>7 We believed they were legitimate costs of</p> <p>8 completing the project. The dispute arose as to</p> <p>9 who was responsible for paying the cost.</p> <p>10 And we had not agreed to let Westinghouse</p> <p>11 "off the hook" as you -- as you stated, for</p> <p>12 those costs without going through the process of</p> <p>13 negotiating that.</p> <p>14 BY MR. COX:</p> <p>15 Q. So my question for you is: There was no</p> <p>16 reason that SCE&amp;G was barred from telling the</p> <p>17 Commission that it anticipated the likely EPC cost to</p> <p>18 be greater than Westinghouse estimated, but that</p> <p>19 SCE&amp;G wasn't going to pay for those higher costs?</p> <p>20 MR. CHALLY: Object to form.</p> <p>21 MR. WATKINS: Objection to the form of the</p> <p>22 question.</p> <p>23 THE WITNESS: I think you're mixing apples</p> <p>24 and oranges.</p> <p>25 I mean, the cost included in the</p>	<p>1 this spreadsheet?</p> <p>2 A. I don't --</p> <p>3 MR. WATKINS: Objection to the form of the</p> <p>4 question.</p> <p>5 THE WITNESS: I don't recall reviewing</p> <p>6 this spreadsheet or seeing it.</p> <p>7 BY MR. COX:</p> <p>8 Q. Did SCE&amp;G file an update filing in</p> <p>9 February 2015, to your knowledge?</p> <p>10 A. We filed an update in 2015. My memory</p> <p>11 tells me it was filed in March. I don't remember the</p> <p>12 exact date, but my memory tells me it was in March,</p> <p>13 not February.</p> <p>14 Q. That's my understanding as well.</p> <p>15 The bottom left-hand corner includes a</p> <p>16 block labeled "Total EPC target and T&amp;M increase</p> <p>17 request."</p> <p>18 Do you see that row?</p> <p>19 A. I'm not sure where you're looking.</p> <p>20 Q. The bottom row of the chart on the bottom</p> <p>21 left corner?</p> <p>22 A. Okay.</p> <p>23 Q. What is the dollar figure in that row?</p> <p>24 A. The dollar figure says 900 -- it must be</p> <p>25 million -- 372,000.</p>

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<p>1 Q. And that's represented here in this chart</p> <p>2 as a -- the total EPC target and T&amp;M increase</p> <p>3 request, correct?</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 THE WITNESS: Yeah. I can -- I can tell</p> <p>6 you that that's what's in this block.</p> <p>7 I don't believe that's the number we</p> <p>8 included in the increase request. I don't --</p> <p>9 I'm not familiar with this schedule. I don't</p> <p>10 know who prepared it or on what basis it was</p> <p>11 prepared.</p> <p>12 I can confirm to you that's what that</p> <p>13 block says, but I -- I don't know who prepared</p> <p>14 this and what was done with it.</p> <p>15 BY MR. COX:</p> <p>16 Q. And that's my understanding, too, that</p> <p>17 it's not the figure that was included in SCE&amp;G's</p> <p>18 2015 PSC filing.</p> <p>19 If you turn back to Exhibit 8, page 60,</p> <p>20 I'd like to compare the numbers in this chart.</p> <p>21 On Exhibit 8, page 60, the total EPC cost</p> <p>22 adjustment in SCE&amp;G's filing with the Commission was</p> <p>23 453.1 million, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. So you would -- would you agree that the</p>	<p>1 I can agree that there's a mathematical</p> <p>2 difference between those numbers, but I can't draw</p> <p>3 any correlation between those numbers and to say</p> <p>4 they're related.</p> <p>5 Q. Okay. And if you go to the top of page</p> <p>6 Exhibit 9, the top of the chart, there's some rows on</p> <p>7 the far left. The top row is labeled --</p> <p>8 MR. WATKINS: I think he's referring to</p> <p>9 Exhibit 9, which is --</p> <p>10 THE WITNESS: Oh, this one. I'm sorry.</p> <p>11 I'm looking at the wrong exhibit.</p> <p>12 BY MR. COX:</p> <p>13 Q. The very top of the document says:</p> <p>14 "Potential target cost remaining as of</p> <p>15 February 2015."</p> <p>16 Do you see that, Mr. Marsh?</p> <p>17 A. Yes, I do.</p> <p>18 Q. And then it says: "Revision 1.0 prepared</p> <p>19 by KJB/WMC/KRK February 24th, 2012."</p> <p>20 Do you see that?</p> <p>21 A. I do see those initials.</p> <p>22 Q. Do you know whether KJB are the initials</p> <p>23 of Kenneth Browne?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 THE WITNESS: I don't know that</p>
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<p>1 total EPC target and T&amp;M increase request number on</p> <p>2 Exhibit 9 is about \$500 million more than the total</p> <p>3 EPC cost adjustment on Exhibit 8, page 60?</p> <p>4 MR. WATKINS: Objection --</p> <p>5 MR. CHALLY: Object to form.</p> <p>6 MR. WATKINS: -- to the form of the</p> <p>7 question.</p> <p>8 MR. CHALLY: Just to make sure the</p> <p>9 record's clear, are we just asking him to</p> <p>10 compare this number on Exhibit 9 to what's on</p> <p>11 page 60 of your testimony?</p> <p>12 BY MR. COX:</p> <p>13 Q. Did you understand the question,</p> <p>14 Mr. Marsh?</p> <p>15 A. I believe I understood what you were</p> <p>16 asking. I can tell you, mathematically, there's a</p> <p>17 difference between those two numbers.</p> <p>18 Q. And what's the difference in those two</p> <p>19 numbers?</p> <p>20 A. Let's see. 952 less 453. If I've done my</p> <p>21 math right, it's a little less than 500 million.</p> <p>22 I don't -- I don't know that those numbers</p> <p>23 are apples-to-apples. As I said earlier, I'm not</p> <p>24 familiar with this analysis. I don't know who</p> <p>25 prepared it or what -- what was done with it.</p>	<p>1 definitively. I can tell you that K and B match</p> <p>2 up with Kenneth and Browne, but I don't know</p> <p>3 that definitively.</p> <p>4 BY MR. COX:</p> <p>5 Q. Okay. And "KRK," the initials match up</p> <p>6 with Mr. Kochems, correct?</p> <p>7 A. Yes, they do.</p> <p>8 MR. CHALLY: Object to form.</p> <p>9 BY MR. COX:</p> <p>10 Q. And "WMC" matches with William Cherry --</p> <p>11 Marion Cherry, correct?</p> <p>12 MR. CHALLY: Object to form.</p> <p>13 THE WITNESS: They could. I mean, I</p> <p>14 accept that the initials match, beginning and</p> <p>15 ending numbers. I don't know about the middle.</p> <p>16 BY MR. COX:</p> <p>17 Q. Okay. Fair enough.</p> <p>18 Below that, there's a row labeled "Craft</p> <p>19 labor costs," and then below that is a row labeled</p> <p>20 "Direct craft labor."</p> <p>21 Do you see that?</p> <p>22 A. I do see that.</p> <p>23 Q. And then if you go to the right there,</p> <p>24 there's a column with the number 13,106,633.</p> <p>25 Do you see that?</p>

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<p>1 A. I do see that.</p> <p>2 Q. And if you go to the row below that,</p> <p>3 there's a number in yellow labeled 1.55.</p> <p>4 Do you see that?</p> <p>5 A. I do see that.</p> <p>6 Q. And then to the right, it says:</p> <p>7 "Performance factor, current ITD PF, recent PFs</p> <p>8 closer to 2.0."</p> <p>9 Do you see that?</p> <p>10 A. I do see that.</p> <p>11 Q. Were you aware at the time that you</p> <p>12 provided testimony to the Commission in 2015 that</p> <p>13 members of the SCE&amp;G EAC team had calculated the cost</p> <p>14 to complete the project with a higher PF factor than</p> <p>15 the consortium was providing to SCE&amp;G?</p> <p>16 MR. CHALLY: Object to form.</p> <p>17 MR. WATKINS: Objection to form.</p> <p>18 THE WITNESS: What I recall is what I told</p> <p>19 you earlier, that I knew the EAC team, as part</p> <p>20 of their review of the information provided to</p> <p>21 us by the consortium, made a mathematical</p> <p>22 calculation of the potential impact if</p> <p>23 performance factors did not change, based on</p> <p>24 what had been represented to us, that consortium</p> <p>25 believed it could achieve as part of its</p>	<p>1 MR. WATKINS: Objection to form.</p> <p>2 THE WITNESS: I was made aware by Steve</p> <p>3 Byrne as part of his review of the information</p> <p>4 that that was their -- their goal that was</p> <p>5 included in the estimated update.</p> <p>6 BY MR. COX:</p> <p>7 Q. And did you become aware of whether the</p> <p>8 consortium had met that goal?</p> <p>9 A. I was not responsible for monitoring the</p> <p>10 performance factor, so I don't -- I don't recall any</p> <p>11 specific amounts at a certain -- or a specific number</p> <p>12 as of a specific date.</p> <p>13 Q. So it's possible that you never became</p> <p>14 aware of whether the consortium had met its promise</p> <p>15 to the -- SCE&amp;G that it would get its PF factor to</p> <p>16 1.15 in six months?</p> <p>17 A. I don't recall a specific discussion. I</p> <p>18 do recall including the fact that the consortium had</p> <p>19 not met its performance factors to date was included</p> <p>20 in Steve Byrne's testimony, I don't remember any</p> <p>21 details other than -- other than that.</p> <p>22 Q. SCE&amp;G's testimony to the Commission in</p> <p>23 2015 did not reveal that the consortium had informed</p> <p>24 SCE&amp;G that it would get its PF factor to 1.15 six</p> <p>25 months after August 2014, did it?</p>
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<p>1 construction plan.</p> <p>2 BY MR. COX:</p> <p>3 Q. And were you made aware of what the</p> <p>4 financial calculation they reached, based on that</p> <p>5 estimate, was?</p> <p>6 A. I don't recall a particular number</p> <p>7 associated with the calculation.</p> <p>8 Q. So you don't recall if you were ever</p> <p>9 informed what their calculation was of their cost to</p> <p>10 complete the project based on that PF that they used?</p> <p>11 MR. WATKINS: Objection. Form.</p> <p>12 THE WITNESS: I don't recall.</p> <p>13 BY MR. COX:</p> <p>14 Q. Were you present at the meeting where the</p> <p>15 consortium informed SCE&amp;G, in 2014, what it believed</p> <p>16 the anticipated cost to complete the project were?</p> <p>17 MR. WATKINS: Objection to form.</p> <p>18 THE WITNESS: I don't recall how that</p> <p>19 information was communicated to us. I know they</p> <p>20 shared that information with us, but I don't</p> <p>21 recall the fashion in which we received it.</p> <p>22 BY MR. COX:</p> <p>23 Q. Were you aware in 2014 that the consortium</p> <p>24 had informed SCE&amp;G that it would get its monthly PT</p> <p>25 factor to 1.15 within six months of August of 2014?</p>	<p>1 MR. WATKINS: Object to form.</p> <p>2 MR. CHALLY: Objection.</p> <p>3 THE WITNESS: I don't recall if that was</p> <p>4 included in specific testimony.</p> <p>5 I do recall that the issue around</p> <p>6 performance factor was clearly addressed, and I</p> <p>7 believe Steve Byrne addressed the risk around</p> <p>8 performance factor and the potential impact that</p> <p>9 could have on cost and schedule.</p> <p>10 BY MR. COX:</p> <p>11 Q. Your testimony to the Commission in 2015</p> <p>12 did not reveal that the consortium had informed SCE&amp;G</p> <p>13 that it would get its PF factor to 1.15 within six</p> <p>14 months after August 2014, did it?</p> <p>15 MR. WATKINS: Objection.</p> <p>16 MR. CHALLY: Object to form.</p> <p>17 THE WITNESS: I don't think my testimony</p> <p>18 included any specific numbers to that effect.</p> <p>19 The purpose of my testimony was to</p> <p>20 introduce the case before the Commission and</p> <p>21 identify for the Commission the witnesses that</p> <p>22 would be addressing the detail project</p> <p>23 information with respect to performance</p> <p>24 factor -- that was done, I believe, by Steve</p> <p>25 Byrne, Carlette Walker, and maybe Ron Jones</p>

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<p>1 also, as part of their direct testimony.</p> <p>2 But that was not -- the intent of my</p> <p>3 testimony was to specifically address that</p> <p>4 issue.</p> <p>5 BY MR. COX:</p> <p>6 Q. Do you believe SCE&amp;G's testimony should</p> <p>7 have revealed to the Commission that the consortium</p> <p>8 had told SCE&amp;G that it would get its PF factor to</p> <p>9 1.15 within six months after August 2014?</p> <p>10 MR. CHALLY: Object to form.</p> <p>11 MR. WATKINS: I object to the form of that</p> <p>12 question.</p> <p>13 THE WITNESS: Based on what we knew at the</p> <p>14 time, I felt it was important and appropriate</p> <p>15 for us to identify the issue around performance</p> <p>16 factor. And we clearly did that in the</p> <p>17 testimony we provided the Commission.</p> <p>18 BY MR. COX:</p> <p>19 Q. Is there a reason that SCE&amp;G did not</p> <p>20 reveal in its testimony to the Commission in 2015</p> <p>21 that the consortium had told SCE&amp;G that it would get</p> <p>22 its performance factor to 1.5 [sic] within six months</p> <p>23 of August of 2014?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 MR. WATKINS: Objection to the form of the</p>	<p>1 through -15658. It's entitled "V.C. Summer Units 2</p> <p>2 and 3 2014 EAC analysis and discussion of cost</p> <p>3 changes."</p> <p>4 MR. CHALLY: I'm not sure that his Bates</p> <p>5 label was the same as yours.</p> <p>6 THE WITNESS: My Bates label is different</p> <p>7 than yours.</p> <p>8 MR. CHALLY: But let's --</p> <p>9 THE WITNESS: The title is the same.</p> <p>10 MR. CHALLY: Let's break --</p> <p>11 MR. COX: Let me get the --</p> <p>12 MR. WATKINS: It could be the wrong</p> <p>13 document.</p> <p>14 MR. COX: -- the marked number on the</p> <p>15 record.</p> <p>16 So the marked version of the document is</p> <p>17 SCANA_RP0021577 through -1583.</p> <p>18 And we'll go off the record.</p> <p>19 MR. CHALLY: Let's take a break. Thank</p> <p>20 you.</p> <p>21 VIDEOGRAPHER: The time is 3:18 p.m., and</p> <p>22 we're off the record.</p> <p>23 (A recess transpired from 3:18 p.m. until</p> <p>24 3:32 p.m.)</p> <p>25 VIDEOGRAPHER: The time is 3:32 p.m., and</p>
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<p>1 question.</p> <p>2 THE WITNESS: I wasn't responsible for the</p> <p>3 testimony on performance factor.</p> <p>4 For my role as CEO, as Mr. Byrne and the</p> <p>5 team had described to me, the risk associated</p> <p>6 with not achieving the performance factor, they</p> <p>7 had indicated was something we -- an issue we</p> <p>8 clearly needed to disclose to the Commission and</p> <p>9 the risks associated with that issue, potential</p> <p>10 risks or impact on cost and schedule, and we did</p> <p>11 that.</p> <p>12 MR. WATKINS: I'm sorry. Somebody's</p> <p>13 dialed in and not on mute. If you could mute</p> <p>14 your phone.</p> <p>15 BY MR. COX:</p> <p>16 Q. Do you believe that SCE&amp;G's testimony to</p> <p>17 the Commission in 2015 was misleading?</p> <p>18 A. I believe the testimony we provided in</p> <p>19 whole, including direct testimony and</p> <p>20 cross-examination associated with that, was truthful.</p> <p>21 (Exhibit 10 was marked for identification.)</p> <p>22 BY MR. COX:</p> <p>23 Q. Mr. Marsh, you've been handed a document</p> <p>24 labeled Exhibit 10 to your deposition. It's a</p> <p>25 seven-page document Bates-labeled FOIA-RP_00015652</p>	<p>1 we're back on record.</p> <p>2 BY MR. COX:</p> <p>3 Q. Mr. Marsh, we've had labeled Exhibit 10 to</p> <p>4 your deposition, this seven-page document.</p> <p>5 Have you ever seen this document before?</p> <p>6 A. I don't recall seeing this document. I</p> <p>7 may have seen it in a deposition preparation, but</p> <p>8 I -- I don't recall seeing it before then.</p> <p>9 Q. Okay. At the top of the document, it</p> <p>10 says: "Report prepared by owners' EAC review and</p> <p>11 validation team." And it has five names of</p> <p>12 individuals below that.</p> <p>13 Do you know if that is -- if that was the</p> <p>14 members of the SCE&amp;G EAC review team in 2014?</p> <p>15 MR. CHALLY: Object to form.</p> <p>16 THE WITNESS: As I testified to earlier, I</p> <p>17 didn't put that team together, so I can't</p> <p>18 confirm that that's all of the members of the</p> <p>19 team.</p> <p>20 BY MR. COX:</p> <p>21 Q. In the paragraph below those names,</p> <p>22 there's a sentence that says, quote, Subsequent to</p> <p>23 the consortium presentation, the owners' EAC review</p> <p>24 team convened and conducted a detailed review of the</p> <p>25 data as presented and as provided at later dates as</p>

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<p>1 requested to support the original presentation, end 2 quote.</p> <p>3 Do you have any reason to doubt that the 4 owners' EAC review team conducted a detailed review 5 of the data that was presented to them?</p> <p>6 MR. WATKINS: Objection to form.</p> <p>7 THE WITNESS: I don't have a reason not to 8 believe that. My understanding is that's what 9 they were assigned to do.</p> <p>10 BY MR. COX:</p> <p>11 Q. Page 2 of this document, the very bottom 12 of page 2, there's a sentence at the bottom of page 2 13 that begins, quote, In the four subsequent months 14 since receipt of the EAC, the ITD PF has increased 15 steadily from 1.45 to the current value due to 16 monthly values of 1.97 for August, 1.95 for 17 September, 1.91 for October, and 2.48 for November, 18 end quote.</p> <p>19 Were you aware of that fact prior to your 20 testimony to the Commission in 2015?</p> <p>21 MR. CHALLY: Object to form.</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: As I stated earlier, I don't 24 recall receiving this document.</p> <p>25 I also don't recall being informed by the</p>	<p>1 that the performance factor continued to be a 2 risk based on our knowledge of the project.</p> <p>3 BY MR. COX:</p> <p>4 Q. Wouldn't you agree, Mr. Marsh, that 5 there's a difference between something being a 6 challenge or a risk and something not being 7 achievable?</p> <p>8 MR. CHALLY: Objection to form.</p> <p>9 MR. WATKINS: Objection to the form of the 10 question.</p> <p>11 THE WITNESS: I mean, certainly, those are 12 different terms.</p> <p>13 BY MR. COX:</p> <p>14 Q. If you had known that the owners' EAC team 15 had concluded that the consortium's estimated PF was 16 not achievable prior to your Commission testimony in 17 2015, would you have had the company, SCE&amp;G, disclose 18 that to the Commission?</p> <p>19 MR. CHALLY: Object to form.</p> <p>20 MR. WATKINS: Objection to the form of the 21 question.</p> <p>22 THE WITNESS: From my perspective, it was 23 critical that we disclosed performance factor as 24 an issue and as a risk and its potential impact 25 on the schedule and cost, which we did in our</p>
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<p>1 nuclear team or leadership that these were the 2 PF numbers for those months.</p> <p>3 BY MR. COX:</p> <p>4 Q. Did you ask the nuclear leadership team 5 what the PF factor was since the consortium's EAC 6 estimate in August 2014?</p> <p>7 MR. WATKINS: Objection to form.</p> <p>8 THE WITNESS: I don't believe I did. I 9 don't recall asking them that.</p> <p>10 BY MR. COX:</p> <p>11 Q. The next sentence at the top of page 3 12 says, quote, In its EAC, the consortium assumed that 13 the project would reach a goal PF of 1.15 within six 14 months. This does not appear to be achievable, end 15 quote.</p> <p>16 Were you aware at the time that you 17 testified before the Commission in 2015 that the 18 owners' EAC team had concluded that the consortium's 19 estimate of PF did not appear to be achievable?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 MR. CHALLY: Object to form.</p> <p>22 THE WITNESS: Again, I don't recall 23 receiving this document.</p> <p>24 I do remember in discussions that I 25 alluded to earlier in preparation of testimony</p>	<p>1 testimony.</p> <p>2 Again, I don't recall receiving this 3 document. I don't know what discussions may or 4 may not have taken place once this was presented 5 to whoever it may have been presented to.</p> <p>6 I don't -- I don't know the date this was 7 presented. I just -- I don't know enough 8 information about this or recall having seen it 9 to reach any conclusions other than the fact 10 that performance factor was an issue, and we 11 disclosed that.</p> <p>12 BY MR. COX:</p> <p>13 Q. I'll represent to you that this document 14 was attached to an e-mail that was dated May 5th, 15 2015, which was prior to your Commission testimony 16 that's -- was labeled as an exhibit to your 17 deposition.</p> <p>18 And I'd like for you to assume for 19 purposes of my question that the EAC owners' team had 20 concluded in May 2015 that the consortium's PF 21 estimate was not achievable.</p> <p>22 Given that assumption, do you believe that 23 the -- if that assumption was true, that the owners' 24 team had reached that conclusion in May 2015, that 25 SCE&amp;G should have disclosed that fact to the</p>

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<p>1 Commission?</p> <p>2 MR. CHALLY: Object to form.</p> <p>3 MR. WATKINS: Objection to form of the</p> <p>4 request. That's --</p> <p>5 THE WITNESS: I think you're --</p> <p>6 MR. WATKINS: That's a hypothetical. And</p> <p>7 I object to the extent it calls for a legal</p> <p>8 conclusion as well.</p> <p>9 THE WITNESS: Your question includes</p> <p>10 speculation -- would require me to speculate as</p> <p>11 to what I think the company might have done.</p> <p>12 I -- I don't know. I believe the issue</p> <p>13 with performance factor was very well disclosed</p> <p>14 and the risks associated were very well</p> <p>15 disclosed.</p> <p>16 I don't -- as I said earlier, this is a</p> <p>17 document that states it was from the EAC team.</p> <p>18 I don't know what discussions came after this.</p> <p>19 But I do know, you know, based on the</p> <p>20 company's evaluation of information we knew at</p> <p>21 the time, what was included in the filing. And</p> <p>22 we believe that to be accurate and pertinent</p> <p>23 information relative to the project.</p> <p>24 MR. CHALLY: Can we take a break?</p> <p>25 MR. COX: Go off the record.</p>	<p>1 BY MR. COX:</p> <p>2 Q. And I appreciate that, Mr. Marsh. And I</p> <p>3 think sometimes it's natural for a witness to kind of</p> <p>4 cut to the chase and get to what the witness feels is</p> <p>5 the question.</p> <p>6 I'm not sure that really answered my</p> <p>7 question. So I just want to go back to it.</p> <p>8 I'm not asking you what the company</p> <p>9 concluded with respect to whether the -- whether it</p> <p>10 believed that the consortium's PF factor was</p> <p>11 achievable or not.</p> <p>12 In fact, just to follow up on that,</p> <p>13 sitting here today, you're not aware of whether</p> <p>14 SCE&amp;G's EAC team concluded that the consortium's PF</p> <p>15 estimate was achievable or not, correct?</p> <p>16 MR. CHALLY: Object to form.</p> <p>17 THE WITNESS: I don't recall, based on</p> <p>18 this document or other documents you have shown</p> <p>19 me, that they concluded that.</p> <p>20 BY MR. COX:</p> <p>21 Q. Is that something you would have wanted to</p> <p>22 know as the CEO of SCE&amp;G prior to the 2015 testimony,</p> <p>23 if that had been concluded?</p> <p>24 MR. CHALLY: Object to form.</p> <p>25 MR. WATKINS: Objection.</p>
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<p>1 VIDEOGRAPHER: Off the record at 3:39 p.m.</p> <p>2 (A recess transpired from 3:39 p.m. until</p> <p>3 3:41 p.m.)</p> <p>4 VIDEOGRAPHER: The time is 3:41 p.m., and</p> <p>5 we are back on the record.</p> <p>6 BY MR. COX:</p> <p>7 Q. Mr. Marsh, it's correct that SCE&amp;G did not</p> <p>8 reveal to the Commission in 2015 -- strike that.</p> <p>9 It's correct, Mr. Marsh, that in its 2015</p> <p>10 filing with the Commission, SCE&amp;G did not state that</p> <p>11 it believed that the PF factor estimated by the</p> <p>12 consortium was not achievable?</p> <p>13 MR. WATKINS: Objection to form.</p> <p>14 MR. CHALLY: I'm sorry. Can you please</p> <p>15 give me one second?</p> <p>16 MR. COX: Yeah.</p> <p>17 MR. CHALLY: Okay. Go ahead.</p> <p>18 THE WITNESS: I don't recall that the</p> <p>19 company had concluded that.</p> <p>20 And in preparation of the testimony, we</p> <p>21 provided what we believed was the most accurate</p> <p>22 information available at the time and the risks</p> <p>23 associated, specifically with the performance</p> <p>24 factor, in our testimony.</p> <p>25</p>	<p>1 THE WITNESS: In my role as CEO, I wanted</p> <p>2 to make sure that our testimony before the</p> <p>3 Commission included appropriate information to</p> <p>4 update relative to cost and schedule and</p> <p>5 identify risks associated with any assumptions</p> <p>6 that were made in achieving those dates or those</p> <p>7 costs.</p> <p>8 BY MR. COX:</p> <p>9 Q. And if the owners' EAC team had included</p> <p>10 that the consortium's PF estimate was not achievable,</p> <p>11 is that a fact that you would have liked to have</p> <p>12 known?</p> <p>13 MR. CHALLY: Object to form.</p> <p>14 THE WITNESS: Just because the EAC team</p> <p>15 had an opinion, you know, I don't know that</p> <p>16 senior management would have concluded that that</p> <p>17 was the right opinion.</p> <p>18 I can't speculate as to what was done.</p> <p>19 All I know is what was presented in the filing</p> <p>20 based on information, you know, I heard</p> <p>21 discussed in preparation of the testimony and I</p> <p>22 recall.</p> <p>23 I don't -- I don't recall this document.</p> <p>24 I don't recall this discussion.</p> <p>25 As I have reviewed it, it appears to me</p>

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<p>1 that the EAC team or the team that's presenting</p> <p>2 this is identifying areas for which we had</p> <p>3 disputes with the consortium as to whether or</p> <p>4 not we should or should not pay for costs</p> <p>5 associated with completing the project.</p> <p>6 They also say -- and this is their</p> <p>7 quote -- "The owner believes that CB&amp;I should</p> <p>8 only be entitled to recovery of a reasonable PF</p> <p>9 like the one assumed in the EAC."</p> <p>10 So, I mean, it sounds like, to me, they</p> <p>11 believe that's an appropriate number that we</p> <p>12 should hold them accountable to, which is</p> <p>13 exactly what we did.</p> <p>14 They went to the Commission and said,</p> <p>15 "This is the number they've given us. They've</p> <p>16 talked about what they expect to do to mitigate</p> <p>17 the current PF and improve it, but it's a risk."</p> <p>18 And that was covered in Steve Byrne's</p> <p>19 testimony --</p> <p>20 BY MR. COX:</p> <p>21 Q. And I'm --</p> <p>22 A. -- at length.</p> <p>23 Q. And, Mr. Marsh, I'm not asking you about</p> <p>24 any of those --</p> <p>25 MR. WATKINS: Mr. Marsh, did you complete</p>	<p>1 filing with the Commission, SCE&amp;G did not state that</p> <p>2 it believed that the PF factor estimated by the</p> <p>3 consortium was not achievable?</p> <p>4 A. I don't recall all the specific testimony.</p> <p>5 I know Mr. Byrne testified that it was a</p> <p>6 significant risk for the project. It could have an</p> <p>7 impact on schedule and cost.</p> <p>8 Q. It's correct that your testimony to the</p> <p>9 Commission did not reveal or did not state that SCE&amp;G</p> <p>10 had concluded that the PF factor that the consortium</p> <p>11 had estimated was not achievable?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: My understanding is that was</p> <p>14 not the purpose of my testimony. It was to talk</p> <p>15 in detail about the project and specific</p> <p>16 project-related matters.</p> <p>17 That was to be included in Mr. Byrne's</p> <p>18 testimony, and that's what he addressed in his</p> <p>19 testimony before the Commission.</p> <p>20 MR. COX: Could you read the question</p> <p>21 back?</p> <p>22 (Whereupon the Court Reporter read the</p> <p>23 previous question.)</p> <p>24 BY MR. COX:</p> <p>25 Q. Can you answer that question?</p>
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<p>1 your answer there? I just want to make sure we</p> <p>2 got that down.</p> <p>3 Were you still talking?</p> <p>4 THE WITNESS: I was through.</p> <p>5 MR. WATKINS: Okay.</p> <p>6 BY MR. COX:</p> <p>7 Q. Mr. Marsh, I'm not asking you about the</p> <p>8 disputes with the consortium about who is going to</p> <p>9 pay for costs. That's not the thrust of my question.</p> <p>10 I think you said that senior management</p> <p>11 could disagree with the EAC team about whether the</p> <p>12 consortium's PF estimate was achievable or not,</p> <p>13 correct?</p> <p>14 MR. WATKINS: Objection.</p> <p>15 THE WITNESS: They are certainly entitled</p> <p>16 to their opinion.</p> <p>17 You know, the filing before the Commission</p> <p>18 is a -- it's a legal filing. I don't -- I don't</p> <p>19 recall all of the legal ramifications for what</p> <p>20 could or could not be included in a filing. I</p> <p>21 just think there are a number of issues that</p> <p>22 would have to be considered before you would</p> <p>23 have changed what we filed with the Commission.</p> <p>24 BY MR. COX:</p> <p>25 Q. It's correct, Mr. Marsh, that in its 2015</p>	<p>1 MR. WATKINS: Objection to the form of the</p> <p>2 question.</p> <p>3 In addition to the previous objection,</p> <p>4 it's now been asked and answered.</p> <p>5 THE WITNESS: I -- as I said, I don't</p> <p>6 believe my testimony was intended to cover the</p> <p>7 detail aspects of the construction project. And</p> <p>8 I don't -- I don't recall including any detailed</p> <p>9 information regarding performance factor in my</p> <p>10 testimony.</p> <p>11 BY MR. COX:</p> <p>12 Q. And that would include any discussion</p> <p>13 about whether SCE&amp;G had concluded that the PF factor</p> <p>14 estimated by the consortium was not achievable,</p> <p>15 correct?</p> <p>16 MR. WATKINS: Objection to the form of the</p> <p>17 question.</p> <p>18 THE WITNESS: I don't recall addressing</p> <p>19 performance factor in detail in my testimony.</p> <p>20 (Exhibit 11 was marked for identification.)</p> <p>21 BY MR. COX:</p> <p>22 Q. Mr. Marsh, I've had labeled as Exhibit 11</p> <p>23 to your deposition an e-mail exchange dated</p> <p>24 November 9th and November 10th, 2014, Bates-marked</p> <p>25 SCANA_RP0850425.</p>

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<p>1 It involves you, Mr. Addison, and 2 Ms. Walker. 3 Go ahead and take a moment to review this 4 document if you like. 5 MR. CHALLY: Yeah. We want to take a 6 quick break on this one. 7 MR. COX: Off the record. 8 VIDEOGRAPHER: Time is 3:49 p.m., and we 9 are off the record. 10 (A recess transpired from 3:49 p.m. until 11 4:00 p.m.) 12 VIDEOGRAPHER: Time is 4:00 p.m., and we 13 are back on the record. 14 BY MR. COX: 15 Q. Mr. Marsh, have you had a chance to review 16 Exhibit 11 to your deposition? 17 A. Yes, I have. 18 Q. Have you ever seen this document before? 19 A. It didn't refresh my memory from seeing 20 it. I don't recall seeing it before. 21 Q. This e-mail exchange begins with a message 22 from Carlette Walker to Jimmy Addison. 23 And in the message, Carlette Walker says, 24 quote, Dukes has specifically indicated that he 25 wanted me to provide him with updates on the EAC and</p>	<p>1 probably should have said "There will be more 2 discussions to come but can't predict the outcome. 3 We should not get into the details of the discussions 4 to date." 5 Q. So you're telling Ms. Walker that she 6 should not get into the details of the EAC 7 discussions that SCE&amp;G has had with the consortium to 8 date, correct? 9 A. That's what I said. 10 Q. Why didn't you want to get into the 11 details of the discussion to date or provide those 12 details to ORS? 13 MR. CHALLY: Object to form. 14 MR. WATKINS: Objection to the form of the 15 question. 16 THE WITNESS: From reading the e-mail, it 17 appears that Carlette is looking for some 18 guidance on what she can share with Dukes Scott 19 because we're preparing to file our quarterly 20 BLRA report with the Office of Regulatory Staff. 21 We don't -- Dukes is considered to be the 22 public, and we didn't believe it was appropriate 23 for her to share any information that would have 24 been in that report until it were filed and it 25 was a public document.</p>
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<p>1 the delay negotiations, end quote. 2 Did I read that correctly? 3 A. Yes, you did. 4 Q. Do you know who Dukes is? 5 A. Dukes, I believe, is referring to Dukes 6 Scott, who is the executive director of the Office of 7 Regulatory Staff. 8 Q. And Mr. Addison responded to Ms. Walker's 9 e-mail and copied you as well; is that correct? 10 A. That is correct. 11 Q. And at the end of Mr. Addison's message, 12 he says, quote, Kevin, I'll copy you in case you can 13 go ahead and provide Carlette any feedback on the 14 negotiation points, end quote. 15 And then you respond, it looks like the 16 next day, and you say -- actually, can you just read 17 your response there? 18 A. This is my response to Jimmy Addison with 19 a copy to Carlette Walker regarding her meeting with 20 the Office of Regulatory Staff: "I talked with Kenny 21 this morning, and we believe the message to ORS 22 should be that we have had one initial meeting with 23 the consortium and are still having discussions. 24 They canceled the meeting last week because they were 25 not ready. I believe" -- it says "there more." It</p>	<p>1 So we're on the verge of filing that 2 report. We don't believe she should share any 3 information in that report. 4 With respect to negotiations, we made our 5 best effort to give Dukes an update on, you 6 know, where we were with the consortium. 7 Just based on what it says here, we had 8 had one initial meeting and are still having 9 discussions. "They canceled the meeting last 10 week because they were not ready." 11 And it was my opinion that there would be 12 more discussions to come, but it was too early 13 for me to predict the outcome. 14 So we are still in active discussions -- 15 this would have been in November -- with the 16 consortium about the EAC. 17 And I didn't have -- I don't think the 18 company had any definitive information that 19 would have resulted in a resolution at that 20 point. And that's what we asked her to relay to 21 Dukes. 22 BY MR. COX: 23 Q. This e-mail, Exhibit 11, it occurred after 24 the presentation that -- the PowerPoint presentation 25 that's provided in Exhibit 7 to your deposition; is</p>



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<p>1 that correct?</p> <p>2 A. Which one was Exhibit 7?</p> <p>3 You said to my testimony?</p> <p>4 Q. To your deposition.</p> <p>5 A. Oh.</p> <p>6 Q. Just look for Exhibit 7 in there.</p> <p>7 A. I should have done a better job of keeping</p> <p>8 them in order.</p> <p>9 MR. WATKINS: This one is 7.</p> <p>10 THE WITNESS: Here it is. I think that's</p> <p>11 it, 7.</p> <p>12 What was the question again?</p> <p>13 BY MR. COX:</p> <p>14 Q. This e-mail, Exhibit 11, it occurred after</p> <p>15 the presentation that's provided in Exhibit 7 to your</p> <p>16 deposition; is that correct?</p> <p>17 MR. CHALLY: Object to form.</p> <p>18 MR. WATKINS: Objection to the form of the</p> <p>19 question.</p> <p>20 THE WITNESS: I can confirm that the date</p> <p>21 of the e-mail is later than the date included on</p> <p>22 the cover page of the presentation.</p> <p>23 BY MR. COX:</p> <p>24 Q. SCE&amp;G never provided ORS with a copy of</p> <p>25 Exhibit 7, did it?</p>	<p>1 I mean, my door is open. She could have</p> <p>2 come to me at any time, but we didn't have any</p> <p>3 regularly scheduled come-give-me-update</p> <p>4 meetings.</p> <p>5 BY MR. COX:</p> <p>6 Q. Was she seeking in those meetings to get</p> <p>7 your approval as the CEO, or was it feedback from you</p> <p>8 as an accountant?</p> <p>9 MR. WATKINS: Objection to the form of the</p> <p>10 question.</p> <p>11 THE WITNESS: Okay. In the example I gave</p> <p>12 you, in my view, it was more as a CPA and</p> <p>13 someone who had made many calculations in my</p> <p>14 history, just to validate her theory as to how a</p> <p>15 number should be calculated.</p> <p>16 I just remember specifically it related to</p> <p>17 one of our earlier change orders and how</p> <p>18 escalation was to be calculated. That's the</p> <p>19 example that comes to mind.</p> <p>20 BY MR. COX:</p> <p>21 Q. What was your impression of her as an</p> <p>22 employee?</p> <p>23 MR. WATKINS: Objection to the form of the</p> <p>24 question.</p> <p>25 THE WITNESS: Carlette was a CPA. She was</p>
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<p>1 MR. WATKINS: Object to the form of the</p> <p>2 question.</p> <p>3 THE WITNESS: I don't know.</p> <p>4 BY MR. COX:</p> <p>5 Q. SCE&amp;G never provided Exhibit 7 to the</p> <p>6 Commission; is that correct?</p> <p>7 A. I don't know.</p> <p>8 MR. WATKINS: Objection to the form of the</p> <p>9 question.</p> <p>10 BY MR. COX:</p> <p>11 Q. How much, or I should say, how often did</p> <p>12 you interact with Carlette Walker?</p> <p>13 MR. WATKINS: Object to the form of the</p> <p>14 question.</p> <p>15 THE WITNESS: I didn't -- I didn't keep a</p> <p>16 log. I've known Carlette for a long time. At</p> <p>17 any time, she could pick up the phone and call</p> <p>18 me. You know, we met from time to time on</p> <p>19 issues that she had at the plant regarding</p> <p>20 disputes with the consortium about how a</p> <p>21 calculation was made.</p> <p>22 When there was some theory involved that</p> <p>23 involved more accounting and finance, she would</p> <p>24 sometimes come to me and get me to validate some</p> <p>25 of her calculations.</p>	<p>1 a -- she was a capable accountant. She was</p> <p>2 outspoken. She was aggressive and, at times, if</p> <p>3 she was upset, could be combative in her</p> <p>4 relationships with others around the company.</p> <p>5 BY MR. COX:</p> <p>6 Q. What did you think about her work as an</p> <p>7 accountant for the company, quality of the work?</p> <p>8 MR. WATKINS: Objection to the form of the</p> <p>9 question.</p> <p>10 THE WITNESS: I never -- I never</p> <p>11 supervised Carlette's work directly as an</p> <p>12 accountant, but I -- to my knowledge, she was a</p> <p>13 capable accountant.</p> <p>14 I mean, she was a CPA, and I believe that</p> <p>15 established some baseline of qualifications for</p> <p>16 her, for her work.</p> <p>17 BY MR. COX:</p> <p>18 Q. Was it concerning to you that she was</p> <p>19 outspoken?</p> <p>20 MR. WATKINS: Objection to form.</p> <p>21 THE WITNESS: No. We -- we put her --</p> <p>22 Bill Timmerman, who was the CEO, decided to put</p> <p>23 her at the plant site because of her</p> <p>24 personality. He wanted to make sure we had some</p> <p>25 at the plant -- someone at the plant site that</p>

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<p>1 would challenge numbers or payments or invoices 2 that came in from the consortium. 3 BY MR. COX: 4 Q. Why did -- to your knowledge, do you know 5 why Ms. Walker left employment at SCANA? 6 A. I can't point to any particular reason. I 7 know she came to see me -- let me back up. 8 She had gone through a performance 9 appraisal with Jimmy Addison in the fall of 2015. 10 Jimmy had come to me and said that Carlette was upset 11 with some of the issues he had raised in the -- in 12 the performance evaluation. 13 And Jimmy told her, "I understand you may 14 disagree. You feel free to go see Kevin and raise 15 your concerns if you want to raise those to him." 16 I recall Jimmy telling me, "Expect a call 17 from her." 18 I think I did -- I do recall receiving a 19 call, and we may have actually set up an appointment. 20 It was late in the week. 21 But before we met, she called Jimmy back 22 and said, "I don't need to see Kevin. I was -- I was 23 wrong in my comments. You and Kevin have been 24 supportive of me and my career, and I appreciate the 25 opportunities you've given me, and I don't need to</p>	<p>1 should fire all three of them immediately. 2 That didn't seem logical to me at the 3 time, but -- it seemed a little irrational, but I 4 wanted to make sure I understood what was driving her 5 concern, and I asked her about that. 6 And she proceeded to tell me about a 7 meeting she had with Jimmy, Marty Phalen -- Jimmy 8 Addison, Marty Phalen, and Jeff Archie. It was 9 regarding a personnel matter at the nuclear plant in 10 an area of the -- of Unit 1's operation -- not the 11 construction site, but Unit 1 -- because Carlette 12 also had responsibility for Unit 1. 13 It regarded an issue related to an 14 employee that Carlette believes pay grade -- or the 15 value associated with her job had not been calculated 16 appropriately and needed to be reviewed. 17 It was explained -- I don't recall who 18 explained it to Carlette, but as I was informed by 19 Marty Phalen -- and I knew the policy because it was 20 a company policy -- if a job is taken up for review 21 and the salary is reviewed and it comes back that the 22 pay should be increased or the range should be 23 increased, the employee may or may not get an 24 adjustment in their pay. 25 If the evaluation comes back and it's</p>
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<p>1 meet with Kevin." 2 And I did not meet with her. 3 Later in 2015 -- I believe it was over the 4 Christmas holidays of 2015, I got a very angry text 5 message from Carlette, unlike any text message I had 6 ever gotten from her before. I don't remember all of 7 the details, but I recall it had to do with the 8 company's disclosures -- I believe it had to do with 9 the company's disclosures regarding the nuclear 10 project, and she was extremely upset, used some foul 11 language in the text message that I recall, and said 12 she wanted to meet with me. 13 I texted her back, indicated I would meet 14 with her immediately. 15 And she responded and said, "No. We can 16 get together after the first of the year." 17 So as soon as I got back to the office in 18 January, I set up an appointment with Carlette. 19 And she came to -- came to see me. And 20 from what I -- what I recall of the conversation was 21 she was extremely upset. She believed that our 22 disclosures around the nuclear project were not 23 appropriate and not accurate and that, you know, she 24 didn't believe that -- that Jimmy Addison, Jeff 25 Archie, and Marty Phalen were trustworthy and that I</p>	<p>1 lower, the range is lower than the employee is 2 making, I recall the policy says you'll be adjusted 3 down immediately to the top end of that range. 4 So you had a risk when you took a job up 5 for evaluation because you didn't know what the 6 answer would be. 7 And she had been advised, as I was told by 8 Marty, not sure you really want to do this. It could 9 come back on the negative side, and then we'll have 10 to adjust the salary. But she insisted that -- based 11 on what Marty had told me, she insisted on going 12 forward with the interview -- I mean, with the 13 evaluation. 14 When the evaluation came back, it was 15 lower, significantly lower than the employee was 16 making. And that employee's current pay was adjusted 17 down to the top end of the range associated with that 18 job -- or was going to be adjusted to the top end of 19 that range. I don't know when it was adjusted. 20 She was very angry about that. She went 21 through an appeals process that is available in the 22 company for someone to review decisions that are 23 made. The appeal came to my office. 24 Under the policy, my understanding was I 25 could delegate someone in the organization to hear</p>

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<p>1 the appeal rather than myself. I chose to do that.</p> <p>2 I felt like Jimmy Addison would be the appropriate</p> <p>3 person. I knew Jimmy to be very fair, very rational,</p> <p>4 and one that would listen to all the facts and base</p> <p>5 his conclusions on information that was presented and</p> <p>6 come up with the right answer.</p> <p>7 My understanding is he did that and</p> <p>8 concluded that the actions that were taken were</p> <p>9 consistent with the company's policies and that</p> <p>10 Carlette was aware of the risk associated with that</p> <p>11 and the decision reached was appropriate.</p> <p>12 She relayed to me a meeting she had with</p> <p>13 Jimmy Addison, Marty Phalen, and Jeff Archie. And</p> <p>14 what -- when she was to communicate to the employee</p> <p>15 that was going to be affected.</p> <p>16 And she -- I don't recall -- she said she</p> <p>17 was treated very ugly in that meeting. She did not</p> <p>18 like the way she was treated in that meeting based on</p> <p>19 the way she presented that discussion that took</p> <p>20 place.</p> <p>21 I told her that, as I told any employee</p> <p>22 that came into my office, you brought me a set of</p> <p>23 facts. You have given me your side of the story. I</p> <p>24 now feel obligated to look at the other side of the</p> <p>25 story.</p>	<p>1 With respect to the issues related to</p> <p>2 disclosures, when she left, I took that as</p> <p>3 information and told her I felt obligated to follow</p> <p>4 up on that.</p> <p>5 Based on what she had told me, I</p> <p>6 immediately called Ron Lindsay, our general counsel,</p> <p>7 and I said, "Ron" --</p> <p>8 MR. CHALLY: Mr. Marsh, I want to just</p> <p>9 interrupt you.</p> <p>10 As to your discussions with lawyers</p> <p>11 representing SCANA, I'm fine if you generally</p> <p>12 describe the substance of what you sought their</p> <p>13 advice on, but don't disclose in detail the</p> <p>14 conversation that you had with those lawyers</p> <p>15 related to the topic.</p> <p>16 THE WITNESS: All right.</p> <p>17 MR. WATKINS: Do you understand that, or</p> <p>18 do you want to take a break to understand the</p> <p>19 nature of what you can testify about in terms of</p> <p>20 discussion with counsel?</p> <p>21 THE WITNESS: I believe I do.</p> <p>22 MR. CHALLY: Yeah.</p> <p>23 MR. WATKINS: Okay.</p> <p>24 THE WITNESS: I believe I do.</p> <p>25 As the CEO, we had in place a corporate</p>
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<p>1 So with respect to that human resources</p> <p>2 issue, I went to Marty Phalen and asked him, "Tell me</p> <p>3 what went on in this meeting."</p> <p>4 He described to me where they had</p> <p>5 explained to Carlette how they had reached the</p> <p>6 decision. It had gone through review process, and</p> <p>7 the conclusion had been reached that the action taken</p> <p>8 would be appropriate.</p> <p>9 She again -- he said she didn't agree with</p> <p>10 it and said she was going to go back and tell the</p> <p>11 employee that "HR had decided to cut your salary."</p> <p>12 Marty said -- Marty told me, he said,</p> <p>13 "Now, wait a minute. You're an officer of the</p> <p>14 company. You've got to represent the process and</p> <p>15 explain the process and not blame it on an</p> <p>16 individual. We went through the right process. And</p> <p>17 that's what you need to explain to the employee."</p> <p>18 She didn't like that answer. She was --</p> <p>19 Marty said she was very upset, and I believe she</p> <p>20 continued to be upset about that when she came to see</p> <p>21 me because she relayed that -- said, "I don't have</p> <p>22 any trust in Jimmy Addison, Marty Phalen, or Jeff</p> <p>23 Archie" -- because he also worked up at the nuclear</p> <p>24 plant -- and said, "I think you should terminate all</p> <p>25 three of them."</p>	<p>1 compliance program whereby if employees believed</p> <p>2 anyone or anything was not appropriate that was</p> <p>3 being done by the company, you could raise that</p> <p>4 to your immediate supervisor, the corporate</p> <p>5 compliance officer, or the general counsel.</p> <p>6 I passed that issue on to general counsel</p> <p>7 for appropriate action.</p> <p>8 BY MR. COX:</p> <p>9 Q. What did Ms. Walker tell you in that</p> <p>10 meeting about her dissatisfaction with the company's</p> <p>11 disclosures about the project?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 THE WITNESS: I don't remember the</p> <p>14 details. I recall that it had to do with</p> <p>15 disclosures.</p> <p>16 BY MR. COX:</p> <p>17 Q. SEC disclosures?</p> <p>18 A. I don't recall the specific details. I</p> <p>19 just -- I remember it had to do with disclosures, and</p> <p>20 I wanted to make sure it was appropriately addressed.</p> <p>21 Q. You don't remember what her problem was</p> <p>22 with the disclosures?</p> <p>23 MR. WATKINS: Objection to form. Asked</p> <p>24 and answered.</p> <p>25 THE WITNESS: I don't recall the details.</p>

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<p>1 BY MR. COX:</p> <p>2 Q. Do you recall anything more than she</p> <p>3 didn't -- or wasn't happy with the disclosures?</p> <p>4 MR. CHALLY: Object to form.</p> <p>5 MR. WATKINS: Objection to the form of the</p> <p>6 question.</p> <p>7 THE WITNESS: I don't recall any more</p> <p>8 detail about the conversation.</p> <p>9 BY MR. COX:</p> <p>10 Q. How did you make sure it was appropriately</p> <p>11 addressed?</p> <p>12 MR. WATKINS: Objection to the form of the</p> <p>13 question.</p> <p>14 THE WITNESS: I turned it over to general</p> <p>15 counsel to address the issue. I don't know that</p> <p>16 I can say any more than that.</p> <p>17 BY MR. COX:</p> <p>18 Q. Did you get a report back from general</p> <p>19 counsel?</p> <p>20 MR. CHALLY: Just to be clear, the</p> <p>21 question is: Did you get a report back,</p> <p>22 Mr. Marsh?</p> <p>23 MR. WATKINS: So "yes" or "no" would be an</p> <p>24 appropriate answer here, but the substance of</p> <p>25 the communication would not be.</p>	<p>1 and expressed concerns about her personal health.</p> <p>2 She -- she updated me on health issues her</p> <p>3 husband was having, which she believed could be</p> <p>4 life-threatening. She informed me that she was</p> <p>5 losing 15 pounds a month because she was -- she was</p> <p>6 upset just over the issues she had described to me</p> <p>7 earlier.</p> <p>8 We -- I asked her if she was getting -- if</p> <p>9 she was talking to someone to address those issues,</p> <p>10 and she said she was.</p> <p>11 I asked her if it would help her for me to</p> <p>12 move her to a different responsibility within the</p> <p>13 organization; if she thought that would help her</p> <p>14 address some of the health issues.</p> <p>15 She initially thought that it might, but</p> <p>16 later communicated back to me that she didn't want to</p> <p>17 leave. She wanted to stay and see the project</p> <p>18 through to completion.</p> <p>19 I took that information, and I met with</p> <p>20 her another time.</p> <p>21 She again relayed her health concerns and</p> <p>22 losing all the weight she was losing each month, and</p> <p>23 she couldn't afford to go on many months before she</p> <p>24 thought that would create a real issue for her.</p> <p>25 I was concerned for her health. I had</p>
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<p>1 THE WITNESS: Yes, I did get a report.</p> <p>2 BY MR. COX:</p> <p>3 Q. Was that written or oral?</p> <p>4 A. It was oral.</p> <p>5 Q. And that report doesn't jog your memory</p> <p>6 about what her concern was about the company's</p> <p>7 disclosures?</p> <p>8 MR. CHALLY: Object to form.</p> <p>9 MR. WATKINS: Objection to the form of</p> <p>10 that question.</p> <p>11 THE WITNESS: I apologize, but I don't</p> <p>12 remember the details. It was regarding</p> <p>13 disclosures. I don't remember the specific</p> <p>14 claims she made.</p> <p>15 BY MR. COX:</p> <p>16 Q. Did you report back to Ms. Walker</p> <p>17 regarding the report that you received from general</p> <p>18 counsel?</p> <p>19 A. I don't know that I did.</p> <p>20 Ms. Walker came back to see me -- I'm</p> <p>21 going to go back and finish up. The question</p> <p>22 relating to Carlette Walker leaving, I think, was the</p> <p>23 initial question we started on.</p> <p>24 She came back to me. I don't recall if we</p> <p>25 had two or three meetings, but she came back to me</p>	<p>1 known Carlette since, I believe, it was 1984. I</p> <p>2 think she joined the company in 1983, and I joined in</p> <p>3 1984.</p> <p>4 I considered her a friend. I was</p> <p>5 concerned for her health. And I told her that I was</p> <p>6 going to put her on paid, full paid medical leave to</p> <p>7 give her a chance to step away and, you know, resolve</p> <p>8 issues with her husband, hopefully, and also address</p> <p>9 the stress that was impacting her health and causing</p> <p>10 her to lose 15 pounds a month.</p> <p>11 She asked me, "How long will you do that?"</p> <p>12 And I said, I don't want to put a time</p> <p>13 frame on it, but I want to do it as long as it takes</p> <p>14 you to recover so that we can -- we can move forward</p> <p>15 and you can get well.</p> <p>16 She -- she left the meeting, and I believe</p> <p>17 that was the last meeting we had.</p> <p>18 I was informed -- I don't recall if it</p> <p>19 was -- if it was directly by her, but the company was</p> <p>20 informed that she desired to retire, and she wanted</p> <p>21 to talk to company representatives about what that</p> <p>22 would look like.</p> <p>23 She had engaged -- she informed us she had</p> <p>24 engaged outside counsel, and at that point, I stepped</p> <p>25 aside and turned it over to our legal department.</p>

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<p>1 Q. Were you involved in negotiating any</p> <p>2 agreements in connection with her retirement from the</p> <p>3 company?</p> <p>4 A. I was not involved with the negotiations</p> <p>5 of the amounts. General counsel or the</p> <p>6 representatives from the legal department would</p> <p>7 update me from time to time on where they were in</p> <p>8 negotiations and their thoughts. So I monitored that</p> <p>9 based on what they told me.</p> <p>10 Q. Did you recommend that any provisions be</p> <p>11 placed in any agreement with her in connection with</p> <p>12 her retirement?</p> <p>13 MR. WATKINS: On that point, if you're</p> <p>14 talking about communications with counsel,</p> <p>15 again, I'll -- I'd counsel you not to disclose</p> <p>16 the substantive communications with counsel,</p> <p>17 whether they're giving you legal advice or</p> <p>18 you're seeking legal advice.</p> <p>19 But otherwise, you may answer.</p> <p>20 BY MR. COX:</p> <p>21 Q. Let me strike the question.</p> <p>22 A. Yeah. Okay.</p> <p>23 Q. Who were you dealing with at the company</p> <p>24 in connection with Ms. Walker's agreement to retire</p> <p>25 from the company?</p>	<p>1 department. But I did inform her that I was --</p> <p>2 that I was taking actions to evaluate and, you</p> <p>3 know, determine the basis for what she had told</p> <p>4 me, whether it was accurate or inaccurate.</p> <p>5 BY MR. COX:</p> <p>6 Q. After receiving the report back from the</p> <p>7 legal department, did you have concerns about the</p> <p>8 company's disclosures?</p> <p>9 A. No, I did not.</p> <p>10 MR. WATKINS: When you're at a good</p> <p>11 breaking point, I could use a break. You don't</p> <p>12 need to stop a line of questioning, but I could</p> <p>13 use a restroom break.</p> <p>14 MR. COX: I think I just have a couple</p> <p>15 more questions on this line.</p> <p>16 BY MR. COX:</p> <p>17 Q. Did you become aware at a certain point in</p> <p>18 time about a voice mail that Ms. Walker left with</p> <p>19 Marion Cherry?</p> <p>20 A. I recall seeing a newspaper article about</p> <p>21 it. I believe it was in the Post and Courier.</p> <p>22 Q. Is that after you had retired from the</p> <p>23 company?</p> <p>24 A. I believe it was. I don't recall the</p> <p>25 specific date.</p>
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<p>1 A. I believe it was Jim Stuckey and Will</p> <p>2 Brumbach. I'm not sure I get his last name</p> <p>3 pronounced correctly.</p> <p>4 Q. Who is Will?</p> <p>5 A. He's an attorney who works in the general</p> <p>6 counsel's office.</p> <p>7 Q. Who signed the agreement for Ms. Walker to</p> <p>8 leave the company?</p> <p>9 MR. WATKINS: Objection to form.</p> <p>10 THE WITNESS: I don't recall.</p> <p>11 BY MR. COX:</p> <p>12 Q. Wasn't you?</p> <p>13 A. I don't know. I don't recall.</p> <p>14 Q. Going back to that communication you had</p> <p>15 with Ms. Walker where she informed you about her</p> <p>16 family's and her personal health issues, I just want</p> <p>17 to close the loop about your recollection about her</p> <p>18 concern about the company's disclosures.</p> <p>19 Do you not recall whether you ever briefed</p> <p>20 her on the report you received from SCE&amp;G counsel</p> <p>21 about her concerns?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: I don't recall sharing that</p> <p>24 with her. I believe she indicated her desire to</p> <p>25 retire before I got any feedback from the legal</p>	<p>1 Q. So to your recollection, you weren't aware</p> <p>2 of that voice mail at the time you were CEO, correct?</p> <p>3 A. I don't recall hearing or being aware of</p> <p>4 it.</p> <p>5 Q. That text message that Ms. Walker left for</p> <p>6 you around the holidays of 2015, did you save a copy</p> <p>7 of it?</p> <p>8 A. I did not personally save a copy of it,</p> <p>9 no.</p> <p>10 Q. Did anyone else save a copy of it?</p> <p>11 A. The legal team may have saved a copy of</p> <p>12 it. I don't have direct knowledge of that.</p> <p>13 But I know I did not personally save a</p> <p>14 copy of it.</p> <p>15 Q. What makes you think that the legal team</p> <p>16 might have saved a copy of it?</p> <p>17 MR. CHALLY: I'm just instructing</p> <p>18 Mr. Marsh not to answer to the extent he's --</p> <p>19 would repeat communications he had with lawyers.</p> <p>20 If you have some independent knowledge as</p> <p>21 to why the legal department might have retained</p> <p>22 a document, you're free to provide that.</p> <p>23 THE WITNESS: I shared the text message</p> <p>24 with the legal department.</p> <p>25</p>

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<p>1 BY MR. COX:</p> <p>2 Q. Are you aware of any other text messages</p> <p>3 that employees of SCANA or SCE&amp;G received from</p> <p>4 Ms. Walker that expressed concern about the company's</p> <p>5 disclosures?</p> <p>6 A. I'm not aware of any. I don't recall any.</p> <p>7 Q. Did you ever discuss with Mr. Addison</p> <p>8 Ms. Walker's concerns about the company's</p> <p>9 disclosures?</p> <p>10 A. I may or may not have after the meeting I</p> <p>11 had with Carlette. I just don't recall specifically.</p> <p>12 MR. COX: Let's take a break and go off</p> <p>13 the record.</p> <p>14 THE WITNESS: Okay.</p> <p>15 VIDEOGRAPHER: The time is 4:29 p.m., and</p> <p>16 we are off the record.</p> <p>17 (A recess transpired from 4:29 p.m. until</p> <p>18 4:39 p.m.)</p> <p>19 VIDEOGRAPHER: The time is 4:39 p.m., and</p> <p>20 we're back on the record.</p> <p>21 MR. SOLOMONS: And before we get started</p> <p>22 back with the questioning, I just wanted to put</p> <p>23 onto the record that Plaintiffs' counsel, due to</p> <p>24 the time constraints and the PSC proceeding,</p> <p>25 will not be asking questions today.</p>	<p>1 the project in 2015, did it?</p> <p>2 MR. WATKINS: Objection --</p> <p>3 MR. CHALLY: Object to form.</p> <p>4 MR. WATKINS: Objection to form.</p> <p>5 THE WITNESS: The assessment being done by</p> <p>6 Bechtel was at the direction of George Wenick.</p> <p>7 He had engaged them to do an assessment.</p> <p>8 BY MR. COX:</p> <p>9 Q. And I -- I'm pretty certain that didn't</p> <p>10 answer my question.</p> <p>11 And I -- I think I understand what your</p> <p>12 answer would be to the question, but I just want to</p> <p>13 have the answer on the record.</p> <p>14 I think you were explaining to me the</p> <p>15 reason that SCE&amp;G did not reveal the Bechtel</p> <p>16 assessment to the Commission -- and I'm not putting</p> <p>17 words in your mouth. That's what I understand your</p> <p>18 answer to be.</p> <p>19 But my question was just to establish the</p> <p>20 fact of whether SCE&amp;G informed the Commission that</p> <p>21 Bechtel was doing an assessment.</p> <p>22 And so I'm going to need to go back and</p> <p>23 ask that question again just to get your answer to</p> <p>24 that question on the record.</p> <p>25 But isn't it true that SCE&amp;G did not</p>
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<p>1 However, they are reserving their right to</p> <p>2 either renote in the Lightsey only or to</p> <p>3 reconvene this deposition however counsel sees</p> <p>4 fit. But we will not be asking questions today</p> <p>5 because of those time constraints.</p> <p>6 MR. CHALLY: Okay.</p> <p>7 MR. SOLOMONS: And we have an</p> <p>8 understanding with SCANA counsel -- I don't know</p> <p>9 if I have that same understanding or cleared</p> <p>10 that yet with personal counsel -- but that is</p> <p>11 our plan.</p> <p>12 MR. CHALLY: The only clarification I</p> <p>13 think we need on that is we'll -- I don't know</p> <p>14 that I would characterize it as reconvene the</p> <p>15 deposition, and I say that for purposes of</p> <p>16 clarifying what obligations we may have to</p> <p>17 discuss background facts with Mr. Marsh before</p> <p>18 or after this period, so --</p> <p>19 MR. SOLOMONS: We can notice that in</p> <p>20 Lightsey only -- renote in Lightsey only.</p> <p>21 MR. CHALLY: Fair enough. Thank you.</p> <p>22 MR. SOLOMONS: Thank you.</p> <p>23 BY MR. COX:</p> <p>24 Q. Mr. Marsh, SCE&amp;G did not inform the</p> <p>25 Commission that Bechtel was doing an assessment of</p>	<p>1 inform the Commission that Bechtel had done an</p> <p>2 assessment of the project in 2015?</p> <p>3 MR. CHALLY: Object to form of the</p> <p>4 question.</p> <p>5 MR. WATKINS: Object to the form of the</p> <p>6 preamble as unnecessarily argumentative, and I</p> <p>7 object to the form of the question as asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: As I stated, the company was</p> <p>10 not doing an assessment. So there wasn't -- I</p> <p>11 don't believe the company informed the</p> <p>12 Commission that it was doing an assessment. The</p> <p>13 assessment was being performed by -- George</p> <p>14 Wenick had engaged Bechtel to do an assessment.</p> <p>15 BY MR. COX:</p> <p>16 Q. Okay. Fair enough.</p> <p>17 And SCE&amp;G did not notify the Commission</p> <p>18 that Wenick had engaged Bechtel to perform an</p> <p>19 assessment of the project, correct?</p> <p>20 MR. CHALLY: Object to the form of the</p> <p>21 question.</p> <p>22 MR. WATKINS: Same objection.</p> <p>23 THE WITNESS: I don't recall a</p> <p>24 notification to that effect.</p> <p>25</p>

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<p>1 BY MR. COX:</p> <p>2 Q. SCE&amp;G did not reveal to the Commission the</p> <p>3 written Bechtel report from the Bechtel assessment</p> <p>4 until after abandonment; is that correct?</p> <p>5 MR. CHALLY: Object to form.</p> <p>6 MR. WATKINS: Object to the form of the</p> <p>7 question.</p> <p>8 THE WITNESS: The report was George</p> <p>9 Wenick's report, outside counsel. And we did</p> <p>10 not -- we did not provide a copy of the report</p> <p>11 given to George Wenick -- that I said earlier</p> <p>12 that I know of -- to the Commission.</p> <p>13 BY MR. COX:</p> <p>14 Q. And isn't it true that SCE&amp;G did not</p> <p>15 provide the Bechtel report to ORS as well?</p> <p>16 MR. CHALLY: Object. Excuse me. Object</p> <p>17 to the form of the question.</p> <p>18 MR. WATKINS: Object to the form of the</p> <p>19 question. Same objection.</p> <p>20 THE WITNESS: To my knowledge, I don't</p> <p>21 think the company provided the report given to</p> <p>22 Mr. Wenick to the Office of Regulatory Staff.</p> <p>23 BY MR. COX:</p> <p>24 Q. The company received the Bechtel Project</p> <p>25 Assessment Report from Mr. Wenick, correct?</p>	<p>1 parts of the presentation that was given to the</p> <p>2 company Santee Cooper and SCE&amp;G by Bechtel on</p> <p>3 October 22nd, 2015, but I can't verify that because I</p> <p>4 was not given a copy of the presentation.</p> <p>5 Q. You were present at a presentation on that</p> <p>6 date given by Bechtel; is that correct?</p> <p>7 A. I did attend a presentation on that date.</p> <p>8 Q. Did that presentation include an</p> <p>9 assessment by Bechtel of the schedule on the project?</p> <p>10 A. There was a presentation given on the</p> <p>11 schedule. There was discussion in the room about the</p> <p>12 schedule, but there were pages presented on the</p> <p>13 screen that addressed schedule.</p> <p>14 Q. There were or were not?</p> <p>15 A. There were pages that were presented in</p> <p>16 the projection on the screen that related to</p> <p>17 schedule.</p> <p>18 Q. If you could turn to page 24 of this</p> <p>19 exhibit?</p> <p>20 A. Where are the page numbers? Got it.</p> <p>21 Okay. I see it down here at the bottom. Yes.</p> <p>22 Q. This page is labeled "Schedule Assessment</p> <p>23 Preliminary Results," and there's a chart that shows</p> <p>24 "Unit 2, Unit 3 Current COD Adjustment" and then "New</p> <p>25 COD."</p>
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<p>1 MR. WATKINS: Object to the form.</p> <p>2 THE WITNESS: Mr. Wenick did make that</p> <p>3 report that was given to him available to the</p> <p>4 company.</p> <p>5 BY MR. COX:</p> <p>6 Q. And isn't it true that SCE&amp;G did not</p> <p>7 provide that report to ORS?</p> <p>8 MR. CHALLY: Object to form.</p> <p>9 MR. WATKINS: Same -- same objection.</p> <p>10 THE WITNESS: Yeah, my understanding from</p> <p>11 direction from in-house counsel was that that</p> <p>12 report was protected because it was -- or</p> <p>13 privileged because it was prepared in</p> <p>14 anticipation of litigation, and it was not</p> <p>15 appropriate for us to disclose it.</p> <p>16 (Exhibit 12 was marked for identification.)</p> <p>17 BY MR. COX:</p> <p>18 Q. Mr. Marsh, you've been handed a document</p> <p>19 labeled Exhibit 12 to your deposition.</p> <p>20 Have you ever seen this document before?</p> <p>21 A. (No audible response.)</p> <p>22 Q. Mr. Marsh, have you ever seen this</p> <p>23 document labeled Exhibit 12 before?</p> <p>24 A. I have not seen this document before.</p> <p>25 Given the date of the document, it appears to be</p>	<p>1 Do you see that?</p> <p>2 A. I do see that.</p> <p>3 Q. Did -- did Bechtel at this October 2015</p> <p>4 presentation provide you with the information on this</p> <p>5 chart regarding its assessment of the schedule?</p> <p>6 A. I don't recall. This appears to be</p> <p>7 consistent with what they provided. I know there was</p> <p>8 a lot of discussion in the room regarding how they</p> <p>9 derived those numbers, most of which I didn't</p> <p>10 understand because I'm -- I'm not a scheduling expert</p> <p>11 related to construction management, but they did</p> <p>12 present information related to schedule.</p> <p>13 Q. And the information they provided showed a</p> <p>14 commercial operation date with the adjustment on this</p> <p>15 chart from the current commercial operation date?</p> <p>16 A. Well, they -- they presented information</p> <p>17 that related to those dates along with other items</p> <p>18 identified as part of their schedule assessment.</p> <p>19 Q. Did you have this information regarding</p> <p>20 the schedule prior to execution of the 2015 amendment</p> <p>21 to the EPC?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: We had given -- I mean, we</p> <p>24 had been given this information on October 22nd.</p> <p>25 And, again, it was preliminary information. It</p>

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<p>1 wasn't -- wasn't finalized.</p> <p>2 And if my memory's correct, we signed the</p> <p>3 amendment on October 27th, 2015. So the</p> <p>4 presentation of the preliminary results we</p> <p>5 received prior to the amendment to the EPC</p> <p>6 contract.</p> <p>7 BY MR. COX:</p> <p>8 Q. The information regarding the schedule</p> <p>9 assessment by Bechtel on page 24 of this document,</p> <p>10 SCE&amp;G never provided that information to the</p> <p>11 Commission, correct?</p> <p>12 MR. WATKINS: Objection to form.</p> <p>13 MR. CHALLY: Object to form.</p> <p>14 THE WITNESS: I don't -- I don't recall</p> <p>15 providing that information. As I stated, this</p> <p>16 was a preliminary assessment. There were</p> <p>17 certainly discussions in the meeting regarding</p> <p>18 the accuracy and completeness of the</p> <p>19 information. I recall that very robust</p> <p>20 discussion. So in my mind, this was not --</p> <p>21 these were not dates that we had concluded were</p> <p>22 accurate or that could be relied upon.</p> <p>23 BY MR. COX:</p> <p>24 Q. Did you have any discussions with any</p> <p>25 nonattorneys at SCE&amp;G or -- or Santee Cooper about</p>	<p>1 whether Bechtel should provide a written report of</p> <p>2 its assessment?</p> <p>3 A. I remember -- I seem to recall an e-mail</p> <p>4 that I believe came from George Wenick wanting to</p> <p>5 know if we wanted a written copy of the Bechtel</p> <p>6 assessment report. I don't ever remember a</p> <p>7 discussion regarding a schedule assessment report.</p> <p>8 I've had no involvement with this.</p> <p>9 Q. Did you provide Mr. Wenick with your</p> <p>10 position on that issue?</p> <p>11 A. Well, I knew Lonnie Carter had expressed</p> <p>12 to me a desire for the report, and I indicated to</p> <p>13 George that I thought we needed to -- I believe I</p> <p>14 indicated to our legal counsel, to George, that we</p> <p>15 needed to make the report available to Lonnie.</p> <p>16 Q. Were you involved in any discussions</p> <p>17 regarding whether the Bechtel Corporation should</p> <p>18 issue two written reports?</p> <p>19 A. I don't recall being in any of those</p> <p>20 discussions.</p> <p>21 Q. You didn't ever advise Mr. Wenick that you</p> <p>22 wanted Bechtel to issue a Project Assessment Report</p> <p>23 and a schedule assessment report?</p> <p>24 MR. WATKINS: Objection to form.</p> <p>25 THE WITNESS: I don't recall any</p>
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<p>1 whether to disclose the Bechtel schedule assessment</p> <p>2 to the Commission?</p> <p>3 MR. CHALLY: Can we just get precisely the</p> <p>4 time period?</p> <p>5 Are you talking about before abandonment</p> <p>6 or after abandonment?</p> <p>7 MR. COX: Before abandonment.</p> <p>8 MR. CHALLY: Before abandonment.</p> <p>9 Go ahead, Mr. Marsh.</p> <p>10 THE WITNESS: I don't recall any</p> <p>11 discussions regarding disclosures. I mean, we</p> <p>12 considered the information -- the company, I</p> <p>13 believe, considered the information preliminary.</p> <p>14 It had not been validated.</p> <p>15 (Exhibit 13 was marked for identification.)</p> <p>16 BY MR. COX:</p> <p>17 Q. Mr. Marsh, you've been handed a document</p> <p>18 labeled Exhibit 13 to your deposition. It's a</p> <p>19 document entitled "V.C. Summer Nuclear Generating</p> <p>20 Station Units 2 and 3 Schedule Assessment Report."</p> <p>21 It's got the Bechtel logo on it. It's</p> <p>22 Bates-numbered ORS_00450277 through -0303.</p> <p>23 Have you ever seen this document before?</p> <p>24 A. I have not seen this document.</p> <p>25 Q. Were you involved in any discussions about</p>	<p>1 directions I gave to Mr. Wenick to that effect.</p> <p>2 BY MR. COX:</p> <p>3 Q. Did Mr. Wenick ever tell you that Bechtel</p> <p>4 had issued a schedule assessment report?</p> <p>5 A. I don't recall being informed by</p> <p>6 Mr. Wenick that there would be a separate report.</p> <p>7 Q. And I should probably make that -- repeat</p> <p>8 that question and make it more broad.</p> <p>9 Were you ever informed by anyone that</p> <p>10 Bechtel had issued a schedule assessment report?</p> <p>11 MR. CHALLY: You talking about prior to</p> <p>12 abandonment?</p> <p>13 BY MR. COX:</p> <p>14 Q. Prior to abandonment. I apologize.</p> <p>15 A. I may have been at some point. I don't</p> <p>16 recall a specific conversation. I do know I've never</p> <p>17 seen the report. I just don't recall if I was ever</p> <p>18 informed there was a separate report.</p> <p>19 Q. When did you become aware that there was a</p> <p>20 Bechtel schedule assessment report?</p> <p>21 A. The first time I recall is -- I believe it</p> <p>22 came up in either presentations or testimony to the</p> <p>23 Senate committee and/or House committee regarding the</p> <p>24 abandonment decision. I remember a discussion around</p> <p>25 that time.</p>



## Kevin Marsh

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<p>1 I don't recall if it was in response to a 2 question or a discussion that attorneys were having. 3 I recall -- I recall hearing something about it at 4 that point. 5 Q. Were you surprised to learn that fact? 6 A. I was. 7 Q. Were you upset that you hadn't been 8 informed that Bechtel had issued a schedule 9 assessment report earlier? 10 MR. WATKINS: Objection to form. 11 THE WITNESS: No, I wasn't -- wasn't 12 upset. I had been informed by my legal counsel, 13 outside legal counsel, that the report was not 14 fully developed enough to be relied upon. So I 15 was not surprised that I didn't get a report. 16 BY MR. COX: 17 Q. You're referring to Mr. Wenick? 18 A. George Wenick, that's correct. 19 Q. And when did he inform you of that fact? 20 A. I recall an e-mail in the November 2015 21 time frame, if I remember correctly. He delineated 22 some of the reasons why he didn't believe the report 23 could be relied upon or the schedule information 24 included in the assessment could not be relied upon 25 because it was not -- not fully developed.</p>	<p>1 final Summer Units 2 and 3 Project Assessment Report 2 to the e-mail. 3 Q. And Mr. Bynum is instructing you not to 4 forward it to anyone else, correct? 5 MR. WATKINS: Objection to form. 6 THE WITNESS: I mean, what he says in the 7 e-mail is that I should still treat the report, 8 the Project Assessment Report, as 9 attorney-client privileged and I should not 10 forward it. If someone needs to see it, send 11 them to Ron or Al, Ron Lindsay or Al Bynum. 12 Q. Did you forward it to anyone else? 13 A. I don't believe I did. 14 Q. You mentioned earlier, I think, that 15 you're not a schedule expert. 16 Do you know whether the schedule for the 17 project that the consortium provided SCE&amp;G was a 18 fully integrated construction schedule? 19 A. I -- I can't address that. I know 20 there -- a variety of descriptions and levels of 21 schedules, but I don't have knowledge to draw that 22 conclusion. 23 Q. Would you have the same answer to the 24 question of -- let me just ask you the question: Do 25 you know if the consortium's schedule for the project</p>
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<p>1 (Exhibit 14 was marked for identification.) 2 BY MR. COX: 3 Q. Mr. Marsh, I've handed you a document 4 labeled Exhibit 14 to your deposition. It's an 5 e-mail chain dated February 5th and February 8th, 6 2016, Bates-numbered ORS_SCEG_01420739. 7 MR. WATKINS: And this is 14, you said? 8 MR. COX: Exhibit 14, correct. 9 MR. WATKINS: Okay. 10 BY MR. COX: 11 Q. Mr. Marsh, is it correct to say that the 12 initial e-mail on this is Mr. Wenick forwarding the 13 Project Assessment Report to Ron Lindsay and Al Bynum 14 from SCANA? 15 A. Correct. 16 MR. WATKINS: Is there an attachment to 17 this document? 18 MR. COX: There was, yeah. 19 MR. WATKINS: Okay. But you don't have 20 it? 21 MR. COX: I don't have it with me, yeah. 22 BY MR. COX: 23 Q. And is it correct to say that Mr. Bynum 24 was forwarding this document to you? 25 A. Well, he states that he is attaching the</p>	<p>1 was resource-loaded? 2 A. I don't know. 3 Q. Mr. Marsh, is it correct that the 4 fixed-price amendment to the EPC contract did not 5 freeze owners' costs? 6 MR. WATKINS: Objection. 7 MR. CHALLY: Object to form. 8 MR. WATKINS: Objection to the form of the 9 question. 10 THE WITNESS: The amendment to the EPC 11 contract would have addressed EPC cost. That 12 was the effect of the amendment. 13 BY MR. COX: 14 Q. And it did not fix the owners' cost 15 associated with the project; is that correct? 16 MR. WATKINS: Objection to form. 17 MR. CHALLY: Same. 18 THE WITNESS: To my knowledge, owners' 19 costs were not identified in the EPC contract. 20 So to the extent they were not identified in the 21 EPC contract, I don't believe they would have 22 been subject to the amendment. 23 BY MR. COX: 24 Q. Mr. Marsh, you were aware at the time that 25 the 2015 amendment to the EPC contract was executed</p>

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<p>1 that Westinghouse could use the Bankruptcy Code to 2 invalidate their price and performance guarantees in 3 the EPC contract, correct?</p> <p>4 MR. CHALLY: Object to form.</p> <p>5 MR. WATKINS: Objection to the form of the 6 question.</p> <p>7 THE WITNESS: Did you say "to invalidate"?</p> <p>8 BY MR. COX:</p> <p>9 Q. Correct. To invalidate.</p> <p>10 MR. CHALLY: Same objection.</p> <p>11 MR. WATKINS: Yeah. Same objection.</p> <p>12 THE WITNESS: I don't know that I had 13 direct knowledge of that issue at the time.</p> <p>14 BY MR. COX:</p> <p>15 Q. The fixed-price amendment -- or strike 16 that.</p> <p>17 The 2015 amendment to the EPC contract 18 resulted in an increase in the amount of monthly 19 payments from the owners to Westinghouse, correct?</p> <p>20 MR. WATKINS: Objection to the form of the 21 question.</p> <p>22 MR. CHALLY: Same.</p> <p>23 THE WITNESS: The contract addressed a 24 series of interim payments to be made beginning 25 January 1st until a final construction milestone</p>	<p>1 Is the question that after the amendment, 2 they anticipated it, or before the amendment 3 they anticipated it after? I'm confused as to 4 time.</p> <p>5 BY MR. COX:</p> <p>6 Q. Do you understand the question?</p> <p>7 A. I'm going to ask you to repeat it.</p> <p>8 Q. Sure.</p> <p>9 Isn't it true that Westinghouse informed 10 SCE&amp;G that it anticipated an increase in cost after 11 execution of the 2015 amendment due to the increased 12 cost in bringing Fluor on board the project?</p> <p>13 MR. CHALLY: Object to form.</p> <p>14 MR. WATKINS: Same objection.</p> <p>15 THE WITNESS: What I recall is 16 Westinghouse believed that Fluor would be 17 ramping up the number of construction personnel 18 on site as well as increase in activity on the 19 construction site that would have resulted in 20 increased cost as they began that ramp-up for 21 the work to be done on the project.</p> <p>22 BY MR. COX:</p> <p>23 Q. The interim payments that SCE&amp;G agreed to 24 pay under the 2015 amendment, that was \$100 million a 25 month?</p>
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<p>1 payment schedule could be agreed to between the 2 owners and the consortium.</p> <p>3 Those -- those payments were an estimate. 4 To my recollection, those estimates were an 5 estimate of actual amounts expected to be spent 6 on the project during that five-month period. 7 And at the end of that time, there was a true-up 8 mechanism that would have adjusted any 9 difference between actual amounts incurred and 10 actual amounts paid.</p> <p>11 So it was a -- it was an educated estimate 12 of what we expected to pay during that period 13 for construction; however, if it didn't -- it 14 turned out to be more or less, there would be an 15 adjustment once the construction milestone 16 payment had been agreed to.</p> <p>17 So it wasn't -- it wasn't a way to 18 increase project cost or lower project cost. It 19 was just a way to estimate what cost would be 20 during that five-month period.</p> <p>21 BY MR. COX:</p> <p>22 Q. Isn't it true that Westinghouse 23 anticipated an increase in cost after the 2015 24 amendment due to bringing Fluor on board the project?</p> <p>25 MR. WATKINS: Objection to form.</p>	<p>1 A. That's what I recall, yes.</p> <p>2 Q. And is it your understanding that that 3 estimate for the monthly construction cost was 4 greater than the cost that had been incurred prior to 5 the amendment?</p> <p>6 MR. WATKINS: Objection to form.</p> <p>7 MR. CHALLY: Same.</p> <p>8 THE WITNESS: I don't know that I can make 9 an apples-to-apples comparison between what was 10 going to be done after the amendment and what 11 was done before.</p> <p>12 What I recall is the monthly amounts 13 before were less than that, but the \$100 million 14 was less than what Westinghouse had represented 15 to us they expected to spend.</p> <p>16 That was an amount we negotiated as part 17 of the EPC agreement.</p> <p>18 BY MR. COX:</p> <p>19 Q. So Westinghouse informed SCE&amp;G that it 20 expected to spend more than \$100 million a month 21 after the 2015 amendment?</p> <p>22 A. Yes, they did.</p> <p>23 Q. And the parties settled on an interim 24 payment schedule of \$100 million a month?</p> <p>25 A. We did, with the understanding there was</p>

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<p>1 to be a true-up. I mean, nobody was to gain or lose</p> <p>2 money on this process. It was -- it was simply a</p> <p>3 mechanism put into place based on an estimated number</p> <p>4 negotiated between Westinghouse and the owners to</p> <p>5 make interim payments until the construction</p> <p>6 milestone payment schedule had been clearly defined.</p> <p>7 Q. Did SCE&amp;G conduct an estimate of the cost</p> <p>8 to complete the project as part of deciding whether</p> <p>9 to enter into the 2015 amendment to the EPC contract?</p> <p>10 MR. WATKINS: Objection to form.</p> <p>11 MR. CHALLY: Yeah, same objection.</p> <p>12 THE WITNESS: I don't -- I don't recall a</p> <p>13 specific analysis to that regard. I know we</p> <p>14 provided testimony to the Commission in 2016.</p> <p>15 As part, Joe Lynch provided testimony</p> <p>16 regarding his evaluation of the risks associated</p> <p>17 with the fixed-price option.</p> <p>18 BY MR. COX:</p> <p>19 Q. Did SCE&amp;G conduct its own analysis of</p> <p>20 whether it would be a good deal to enter into the</p> <p>21 fixed-price option?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: The company -- the company's</p> <p>24 team at the site and financial team did an</p> <p>25 evaluation of whether we thought the fixed-price</p>	<p>1 THE WITNESS: I don't -- I don't agree</p> <p>2 with that statement. The amendment was broader</p> <p>3 than the fixed-price option. It was an option.</p> <p>4 It wasn't something we had to do. It was an</p> <p>5 option that was available to us that, as we told</p> <p>6 the Commission, we needed to take time to study</p> <p>7 it and evaluate it.</p> <p>8 But we wanted that option, which is what</p> <p>9 we negotiated into the EPC amendment. There</p> <p>10 were a variety of other issues that were</p> <p>11 addressed in the amendment that we believe were</p> <p>12 also good for the project and in the best</p> <p>13 interest of customers.</p> <p>14 BY MR. COX:</p> <p>15 Q. Part of SCE&amp;G's analysis was to decide how</p> <p>16 likely it was that the cost to complete the project</p> <p>17 would exceed the fixed-price option price, correct?</p> <p>18 A. I don't recall the specific analysis. I</p> <p>19 know we evaluated -- the team -- the team that was</p> <p>20 doing the evaluation evaluated risks associated with</p> <p>21 the project to help us determine whether or not the</p> <p>22 fixed-price option was to the benefit of customers.</p> <p>23 Q. And is it correct to say that as part of</p> <p>24 that analysis, SCE&amp;G developed its own estimate of</p> <p>25 the cost to complete the project?</p>
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<p>1 option would be good for us and good for</p> <p>2 customers or -- or to leave the contract exactly</p> <p>3 the way it was.</p> <p>4 The amendment taken as a whole, which</p> <p>5 included the fixed-price option, we believe was</p> <p>6 in the best interest of the project and</p> <p>7 customers.</p> <p>8 BY MR. COX:</p> <p>9 Q. That internal analysis that SCE&amp;G</p> <p>10 conducted, was it conducted before the October 2015</p> <p>11 amendment or afterward?</p> <p>12 A. I don't recall the specific analyses that</p> <p>13 were done. I do remember members of the financial</p> <p>14 team from the plant were working with us as we were</p> <p>15 negotiating the fixed price with the consortium, but</p> <p>16 I don't -- I don't recall specific analyses they did</p> <p>17 to support the decision to sign the amendment.</p> <p>18 Q. In deciding whether to execute the 2015</p> <p>19 amendment, SCE&amp;G used its own estimate of cost to</p> <p>20 complete the project to decide whether to execute</p> <p>21 that amendment and didn't rely on the consortium's</p> <p>22 cost estimate, correct?</p> <p>23 MR. WATKINS: Objection to the form of the</p> <p>24 question.</p> <p>25 MR. CHALLY: Yeah, same objection.</p>	<p>1 MR. WATKINS: Objection.</p> <p>2 THE WITNESS: I don't recall a specific</p> <p>3 estimate. I recall evaluations being done of</p> <p>4 the risk associated with us staying with the</p> <p>5 fixed-price -- staying with the existing</p> <p>6 contract versus converting to the fixed-price</p> <p>7 option.</p> <p>8 BY MR. COX:</p> <p>9 Q. What steps did SCE&amp;G take to assess the</p> <p>10 financial health of Westinghouse as part of its</p> <p>11 decision to execute the 2015 amendment?</p> <p>12 MR. WATKINS: Objection to the form of the</p> <p>13 question. Lack of foundation.</p> <p>14 THE WITNESS: I don't know. I wasn't</p> <p>15 involved in any of those steps.</p> <p>16 BY MR. COX:</p> <p>17 Q. Do you know if any of those steps</p> <p>18 occurred?</p> <p>19 A. I don't recall specifically what was done.</p> <p>20 I do recall, at the time we signed the</p> <p>21 agreement, that Westinghouse -- excuse me -- that</p> <p>22 Toshiba, who was assuming responsibility for the</p> <p>23 parental guarantees, had a credit -- had a credit</p> <p>24 rating of investment grade. I believe it was</p> <p>25 actually higher than SCE&amp;G's at the time.</p>

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<p>1 Q. Those parental guarantees weren't</p> <p>2 increased as part of the 2015 amendment, were they?</p> <p>3 A. I don't believe they were. I don't recall</p> <p>4 specifically. I don't believe that was one of the</p> <p>5 changes made in the agreement.</p> <p>6 Q. When did you become aware that</p> <p>7 Westinghouse was having cash flow problems?</p> <p>8 MR. WATKINS: Objection to form.</p> <p>9 THE WITNESS: I don't -- I don't recall</p> <p>10 specifically.</p> <p>11 BY MR. COX:</p> <p>12 Q. Did you become aware of that at some point</p> <p>13 prior to Westinghouse's bankruptcy?</p> <p>14 A. I remember Westinghouse filing for</p> <p>15 bankruptcy. I don't -- I don't recall any specific</p> <p>16 discussions around cash flow issues.</p> <p>17 It was our understanding that Toshiba</p> <p>18 would be able to back them up if they had any issues.</p> <p>19 Q. Did you have discussions with Santee</p> <p>20 Cooper in 2016 about engaging bankruptcy counsel due</p> <p>21 to concern about Westinghouse entering bankruptcy?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: I did have discussions. I</p> <p>24 don't recall specifically who with. I know we</p> <p>25 discussed it.</p>	<p>1 Q. What was the purpose of those meetings?</p> <p>2 A. I don't --</p> <p>3 MR. CHALLY: Object to form.</p> <p>4 THE WITNESS: I don't recall specifically.</p> <p>5 I try to maintain a relationship with Dukes to</p> <p>6 make sure he was satisfied that he was getting</p> <p>7 what he needed from our team, if our people were</p> <p>8 interacting with his team appropriately, and I</p> <p>9 don't recall any specific issues.</p> <p>10 BY MR. COX:</p> <p>11 Q. Did he ever express any concerns to you</p> <p>12 regarding the interactions between his team and your</p> <p>13 team?</p> <p>14 A. I don't recall. What I generally remember</p> <p>15 him saying is that our team was being responsive and</p> <p>16 that our contacts were keeping him informed and</p> <p>17 working to resolve issues.</p> <p>18 I don't recall him complaining about any</p> <p>19 interactions on the team.</p> <p>20 Q. Do you recall him raising any concerns</p> <p>21 about the project during those meetings?</p> <p>22 MR. WATKINS: Objection to form.</p> <p>23 THE WITNESS: I -- we talked about the</p> <p>24 project from time to time or issues we might</p> <p>25 have been considering, or it might have been in</p>
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<p>1 The company, several representatives, met</p> <p>2 with the board of Santee Cooper, and we</p> <p>3 discussed the concern that it would be prudent</p> <p>4 to make sure we had bankruptcy counsel available</p> <p>5 as a part of the overall project. Should there</p> <p>6 be a need to engage someone, we would already</p> <p>7 have someone identified.</p> <p>8 We didn't identify any particular work</p> <p>9 that I recall needed to be done at the time.</p> <p>10 BY MR. COX:</p> <p>11 Q. That step was taken -- to retain</p> <p>12 bankruptcy counsel -- was taken after the 2015</p> <p>13 amendment to the EPC was executed, correct?</p> <p>14 MR. WATKINS: Objection to form.</p> <p>15 THE WITNESS: I don't recall the exact</p> <p>16 date, but it was done after the amendment was</p> <p>17 executed.</p> <p>18 BY MR. COX:</p> <p>19 Q. Did you ever meet with Dukes Scott at</p> <p>20 Lizard's Thicket?</p> <p>21 A. I've had lunch with Dukes Scott on a</p> <p>22 number of occasions at Lizard's Thicket.</p> <p>23 Q. Anywhere else?</p> <p>24 A. I think I've had breakfast with him a</p> <p>25 couple times downtown at different restaurants.</p>	<p>1 testimony. But I don't recall any specific</p> <p>2 issues we discussed.</p> <p>3 BY MR. COX:</p> <p>4 Q. Did you inform him at some point in time</p> <p>5 that you no longer trusted Westinghouse?</p> <p>6 A. I don't recall making that statement to</p> <p>7 Dukes.</p> <p>8 Q. Did you lose trust in Westinghouse at some</p> <p>9 point in time?</p> <p>10 A. I became very disappointed with what we</p> <p>11 learned as our team did its evaluation of what needed</p> <p>12 to be done to complete the project once they made all</p> <p>13 their information available to us.</p> <p>14 We had been -- we had been told on</p> <p>15 numerous occasions that they intended to complete the</p> <p>16 project. They were committed to the project. It was</p> <p>17 important that they complete these projects because</p> <p>18 it was a cornerstone of their strategic business plan</p> <p>19 to sell these units, not just in the United States</p> <p>20 but around the world.</p> <p>21 So I was shocked when they decided they</p> <p>22 were going to file for bankruptcy and reject the</p> <p>23 contracts.</p> <p>24 Q. Did you learn in 2017 that the</p> <p>25 Westinghouse schedules were inaccurate?</p>

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<p>1 MR. CHALLY: Object to form.</p> <p>2 THE WITNESS: We put together a team for</p> <p>3 the purpose of making our evaluation of what we</p> <p>4 thought it would take to complete the projects.</p> <p>5 Our team, based on that evaluation -- it</p> <p>6 was put together by Steve Byrne and the people</p> <p>7 at the plant -- they came up with different</p> <p>8 estimates based on what they learned as part of</p> <p>9 their investigation and analysis of details that</p> <p>10 for the first time had been shared with us by</p> <p>11 the consortium.</p> <p>12 BY MR. COX:</p> <p>13 Q. And that assessment that was done by SCE&amp;G</p> <p>14 revealed that the completion dates for the units</p> <p>15 would be later than Westinghouse was projecting,</p> <p>16 correct?</p> <p>17 MR. WATKINS: Objection to form.</p> <p>18 MR. CHALLY: Same.</p> <p>19 THE WITNESS: The analysis that was</p> <p>20 performed came up with different dates than what</p> <p>21 Westinghouse had committed to us.</p> <p>22 BY MR. COX:</p> <p>23 Q. Do you recall what the dates were that</p> <p>24 your team came up with?</p> <p>25 A. I -- I don't recall specifically what they</p>	<p>1 BY MR. COX:</p> <p>2 Q. Mr. Marsh, you've been handed a document</p> <p>3 labeled Exhibit 15. It's a one-page document</p> <p>4 entitled "Bechtel Report Action Plan," Bates-numbered</p> <p>5 ORS_00000497.</p> <p>6 Have you ever seen this document before?</p> <p>7 MR. CHALLY: Let's take a quick break.</p> <p>8 VIDEOGRAPHER: The time is 5:20 p.m., and</p> <p>9 we're off the record.</p> <p>10 (A recess transpired from 5:20 p.m. until</p> <p>11 5:26 p.m.)</p> <p>12 VIDEOGRAPHER: The time is 5:27 p.m., and</p> <p>13 we're back on the record.</p> <p>14 BY MR. COX:</p> <p>15 Q. Mr. Marsh, have you ever seen the document</p> <p>16 that's labeled Exhibit 15 before?</p> <p>17 A. The first time I saw this document was</p> <p>18 when the company was providing testimony in front of</p> <p>19 the House committee that was reviewing the</p> <p>20 abandonment decision. I had not seen it prior to</p> <p>21 that time. I had no knowledge of it.</p> <p>22 Q. The second section of the document labeled</p> <p>23 "Santee Cooper proposal for use of report," it lists</p> <p>24 four steps to be taken on the project: A, B, C, and</p> <p>25 D.</p>
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<p>1 were.</p> <p>2 Q. Isn't it true that the completion dates</p> <p>3 that the SCE&amp;G team came up with were even later than</p> <p>4 the completion dates that the Bechtel Corporation had</p> <p>5 estimated in 2015?</p> <p>6 MR. CHALLY: Object to form.</p> <p>7 MR. WATKINS: Objection to form.</p> <p>8 THE WITNESS: I don't recall.</p> <p>9 BY MR. COX:</p> <p>10 Q. What information did your team have to</p> <p>11 make that assessment in 2017 that it didn't have</p> <p>12 prior to Westinghouse's bankruptcy?</p> <p>13 MR. WATKINS: Objection to form.</p> <p>14 THE WITNESS: I don't know. I wasn't</p> <p>15 involved in the analysis. I just know, based on</p> <p>16 what was reported to me by Steve Byrne, that we</p> <p>17 had access to information that we had never been</p> <p>18 able to see before because of the fixed-price</p> <p>19 and proprietary nature of the contract.</p> <p>20 BY MR. COX:</p> <p>21 Q. But you're not aware of what the</p> <p>22 information was that he was talking about, correct?</p> <p>23 A. I can't tell you personally. No, I can't.</p> <p>24 (Exhibit 15 was marked for identification.)</p> <p>25</p>	<p>1 Can you tell me which of those steps, if</p> <p>2 any, were implemented on the project?</p> <p>3 A. I need to reiterate I'm not familiar with</p> <p>4 this document. I didn't participate in preparation.</p> <p>5 It was never shown to me prior to the presentation to</p> <p>6 the House of Representatives subcommittee, so I just</p> <p>7 don't have knowledge of this.</p> <p>8 MR. WATKINS: I'll object to the form of</p> <p>9 that question.</p> <p>10 BY MR. COX:</p> <p>11 Q. Fair enough.</p> <p>12 Do you know who within SCE&amp;G or SCANA had</p> <p>13 this document prior to abandonment?</p> <p>14 MR. CHALLY: Object to form.</p> <p>15 THE WITNESS: I have no knowledge of this</p> <p>16 document until it was handed to me at the</p> <p>17 presentation of the Legislative Committee.</p> <p>18 BY MR. COX:</p> <p>19 Q. The -- and I realize that you were not</p> <p>20 privy to this document prior to abandonment -- but</p> <p>21 that second section of the document, "Santee Cooper</p> <p>22 proposal for use of report," it says, quote, We will</p> <p>23 continue to cooperate within the law with SCE&amp;G's</p> <p>24 efforts to avoid disclosure on the condition that</p> <p>25 SCE&amp;G will agree to use the document as a template</p>

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<p>1 for project administration. Changes to be jointly 2 decided, but most include" -- I think that must be 3 "must" -- and then it lists four steps. 4 Can you tell me whether those four steps 5 that are listed, whether any of them were actually 6 implemented on the project? 7 MR. CHALLY: Object to form. 8 MR. WATKINS: Object to form of the 9 question for all the previous reasons, plus it's 10 now been asked and answered. 11 THE WITNESS: I can't -- I can't speak to 12 what Santee Cooper was proposing. I mean, I was 13 not aware of this document at the time it was 14 drafted. 15 BY MR. COX: 16 Q. I understand that, Mr. Marsh, and I 17 understand this is their proposal. 18 What I'm asking you is: Based on your 19 knowledge of the project, which of these proposals, 20 if any, were actually implemented? 21 MR. WATKINS: Same objection. 22 MR. CHALLY: Object to form. 23 MR. WATKINS: Same objection. 24 THE WITNESS: I don't know if those exact 25 proposals were presented to the company for</p>	<p>1 but my first question is the same. 2 Have you ever seen this document before? 3 MR. WATKINS: Let's take time to review 4 this document. 5 MR. COX: Can I go ahead and label one 6 more? I only have one more document. 7 MR. CHALLY: Smart move. Let's just do 8 that. That's a good idea. 9 MR. COX: We've reached a consensus. 10 (Exhibit 17 was marked for identification.) 11 MR. COX: So I've labeled a document 12 marked as Exhibit 17 Bates-numbered ORS_0013083 13 through ORS_0013091. We can go off the record. 14 VIDEOGRAPHER: The time is 5:34 p.m., and 15 we are off the record. 16 (A recess transpired from 5:34 p.m. until 17 5:55 p.m.) 18 VIDEOGRAPHER: Time is 5:55 p.m., and 19 we're back on the record. 20 BY MR. COX: 21 Q. Mr. Marsh, we're back from our break. 22 Exhibit 16 to your deposition, it's a 23 nine-page document produced by Santee Cooper in this 24 litigation. 25 Have you ever seen this document before?</p>
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<p>1 implementation. 2 BY MR. COX: 3 Q. That's fair enough. I understand that. 4 All I'm asking for you, to the extent you 5 know, is whether any of these four steps were ever 6 implemented on the project. 7 MR. CHALLY: Same objection. 8 MR. WATKINS: Same objection. 9 THE WITNESS: Again, I don't know if these 10 are specific recommendations that were made. I 11 don't know that the company, you know, followed 12 all of these recommendations, if they were 13 recommendations. 14 Again, it's Santee Cooper's proposal. 15 I -- you know, we made -- we made changes on a 16 regular basis with issues related to the 17 project. I don't know specifically if all these 18 were put into place or if any were put into 19 place. 20 (Exhibit 16 was marked for identification.) 21 BY MR. COX: 22 Q. Mr. Marsh, you've been handed a document 23 labeled Exhibit 16 to your deposition. It's a 9-page 24 document Bates-numbered ORS_00035603 through -611. 25 Take your time to review this document,</p>	<p>1 A. I don't recall seeing this document. 2 Q. Did Mr. Carter ever provide talking points 3 to you for your meetings with the CEOs at the 4 consortium? 5 A. From time to time we would agree on 6 talking points, but I don't recall seeing this 7 document as part of that process. 8 Q. Exhibit 17 to your deposition, it's a 9 separate document in front of you. 10 A. Right. 11 Q. Same question on that document: Have you 12 ever seen the document before? 13 A. I have seen this. 14 Q. When did you see it? 15 A. I don't recall exactly. What I do recall 16 is it was attached to an e-mail that came to me. My 17 memory is it was in the November time frame of 2016. 18 Q. Who was the e-mail from? 19 A. Lonnie Carter. 20 Q. And do you recall why he was sending it to 21 you? 22 MR. WATKINS: Objection to the form of the 23 question. 24 MR. CHALLY: Same objection. 25 THE WITNESS: I don't know why he would</p>

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<p>1 send it to me.</p> <p>2 BY MR. COX:</p> <p>3 Q. He didn't tell you why he was sending you</p> <p>4 this document?</p> <p>5 A. No. He sent me the letter -- he sent me</p> <p>6 the e-mail. I don't recall what was in the e-mail.</p> <p>7 I do recall it was right before we were scheduled to</p> <p>8 meet with his board of directors.</p> <p>9 Q. What was the purpose of that meeting?</p> <p>10 MR. CHALLY: Object to form.</p> <p>11 THE WITNESS: The board of directors</p> <p>12 meeting?</p> <p>13 BY MR. COX:</p> <p>14 Q. Yes.</p> <p>15 A. We had agreed with their board that we</p> <p>16 would meet periodically throughout the year to talk</p> <p>17 about actions and activities related to the project.</p> <p>18 Q. And what was the information that you were</p> <p>19 presenting to the Santee board at that November 2016</p> <p>20 meeting?</p> <p>21 MR. WATKINS: Objection to form.</p> <p>22 THE WITNESS: I don't recall the specific</p> <p>23 information we were to talk about.</p> <p>24 BY MR. COX:</p> <p>25 Q. Did you view Bechtel's presentation in</p>	<p>1 that this is going to lead to additional work.</p> <p>2 Q. Did you become concerned at some point</p> <p>3 during Bechtel's assessment that Bechtel was using</p> <p>4 the assessment to try to get more work on the</p> <p>5 project?</p> <p>6 A. I don't recall specifically times other</p> <p>7 than -- than one offer was made to bring, what I</p> <p>8 recall, hundreds of employees to the site because</p> <p>9 they were finishing up work on the Watts Bar project.</p> <p>10 They had been engaged by TVA to finish that nuclear</p> <p>11 project, and they offered to go ahead and bring</p> <p>12 down -- I remember 200. That may not be an accurate</p> <p>13 number, but it was a large number of people to the</p> <p>14 project.</p> <p>15 And I said, "No, that's not something we</p> <p>16 want to contemplate at this point."</p> <p>17 Q. Did that make you concerned that Bechtel</p> <p>18 was using the assessment to try to get more work</p> <p>19 beyond the assessment?</p> <p>20 A. Certainly put my antenna up because they</p> <p>21 had offered something that we had told them they</p> <p>22 shouldn't expect as part of the engagement.</p> <p>23 Q. Did you ever meet with anyone from Bechtel</p> <p>24 during the assessment?</p> <p>25 A. I had some phone conversations with Craig.</p>
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<p>1 October 2015 to be a sales pitch?</p> <p>2 MR. WATKINS: Objection to the form of the</p> <p>3 question.</p> <p>4 THE WITNESS: I mean, my -- my</p> <p>5 understanding of the report that was presented</p> <p>6 was to give us their preliminary results</p> <p>7 regarding the assessment that they had done for</p> <p>8 George Wenick.</p> <p>9 I had been informed before the meeting --</p> <p>10 I don't recall by whom -- saying that Bechtel</p> <p>11 intended to give us a sales pitch at the</p> <p>12 conclusion of the meeting.</p> <p>13 Q. Did that occur?</p> <p>14 A. No, it didn't. They offered -- they had</p> <p>15 another presentation they wanted to give us. I</p> <p>16 didn't feel like we had time for another</p> <p>17 presentation. We were in the middle of trying to</p> <p>18 negotiate the amendments to the EPC contract, a lot</p> <p>19 of other activities going on.</p> <p>20 And if it was a sales pitch, we told them</p> <p>21 that at the beginning of the engagement that they</p> <p>22 shouldn't anticipate that this engagement was a</p> <p>23 steppingstone to provide opportunities for them to</p> <p>24 come in and do additional work. Didn't say that it</p> <p>25 wouldn't, but said there should not be an expectation</p>	<p>1 Craig Albert, I believe, was the president or CEO of</p> <p>2 Bechtel. We had a couple of phone conversations. I</p> <p>3 may have had some discussions.</p> <p>4 I don't recall any of the discussions with</p> <p>5 the people that were on the site unless they were</p> <p>6 participants in that phone call.</p> <p>7 Q. What did Mr. Albert contact you about?</p> <p>8 A. We were having, I believe it was, biweekly</p> <p>9 updates of the status of the work, the ongoing status</p> <p>10 of the work at the project.</p> <p>11 Q. Were you ever interviewed by Bechtel as</p> <p>12 part of Bechtel's assessment of the project?</p> <p>13 A. I don't recall being interviewed by</p> <p>14 Bechtel. I may have, but I just don't recall being</p> <p>15 interviewed by them.</p> <p>16 Q. Did you ever meet Craig Albert in person?</p> <p>17 A. Yes. He -- I met him on a couple of</p> <p>18 occasions.</p> <p>19 Q. Was that as part of these biweekly</p> <p>20 updates, or some other type of purpose?</p> <p>21 A. No, those were -- the biweekly updates</p> <p>22 were done by phone. Craig met with representatives</p> <p>23 of SCE&amp;G and SCANA when they were making their</p> <p>24 proposal of work they could do for the assessment.</p> <p>25 Q. Did Mr. Albert present the findings of</p>

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<p>1 Bechtel at the October 2015 meeting?</p> <p>2 A. He was in the meeting. I recall him</p> <p>3 making some introductory comments. But for the most</p> <p>4 part, I remember the presentation being made by</p> <p>5 different members of his team linked to different</p> <p>6 sections of the assessment that had been done.</p> <p>7 Q. Did you meet any other members of the</p> <p>8 Bechtel team aside from Craig Albert?</p> <p>9 A. There was a -- at least one</p> <p>10 representative, I believe, in one of the meetings</p> <p>11 where they were describing a -- the work to be done.</p> <p>12 I remember meeting him. There may have been other</p> <p>13 members of the team at the time. I just don't</p> <p>14 recall. I just remember one individual.</p> <p>15 Q. Did you ever meet Ty Troutman?</p> <p>16 A. I don't recall ever meeting Ty Troutman.</p> <p>17 Q. Did you ever meet an individual named Carl</p> <p>18 Rau?</p> <p>19 A. I believe Carl Rau was the one that was in</p> <p>20 the presentation when they were offering suggestions</p> <p>21 for the assessment.</p> <p>22 Q. That's the October 2015 meeting, correct?</p> <p>23 A. No, that was in April of '15, but we were</p> <p>24 still -- they were still, I guess, making their pitch</p> <p>25 to come in and have us consider doing the assessment.</p>	<p>1 I've been accumulating stock in the Employee Stock</p> <p>2 Ownership Plan, and I've also made additional</p> <p>3 purchases to satisfy ownership requirements from the</p> <p>4 board, but I just don't recall the exact number of</p> <p>5 shares.</p> <p>6 Q. Is it more than 1,000 shares?</p> <p>7 A. Yes, it is.</p> <p>8 Q. Is it more than 5,000?</p> <p>9 A. I believe it is.</p> <p>10 Q. Is it more than 10,000 shares?</p> <p>11 A. I don't want to guess. I mean, those</p> <p>12 numbers are reported in the proxy. It's public</p> <p>13 information. I mean, it's -- it's all reported in</p> <p>14 there. I've not -- I've not sold any SCANA shares.</p> <p>15 Everything I've purchased I still own.</p> <p>16 Q. Do you receive any annuity from SCANA?</p> <p>17 MR. CHALLY: Object to form.</p> <p>18 THE WITNESS: I'm not sure what you mean</p> <p>19 by -- I know what an annuity is, but I'm not</p> <p>20 sure what you're referring to specifically.</p> <p>21 BY MR. COX:</p> <p>22 Q. Sure. Do you receive any cash payments,</p> <p>23 retirement payments, from SCANA?</p> <p>24 A. I'm a participant, like all other</p> <p>25 employees, in the SCANA Corporation Retirement Plan,</p>
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<p>1 MR. WATKINS: Jim, it's 6:03. I'll</p> <p>2 obviously give you time to wrap things up, but</p> <p>3 we had agreed on 6:00. I just want to get a</p> <p>4 sense of where we are.</p> <p>5 MR. COX: I think I've probably got about</p> <p>6 ten more minutes.</p> <p>7 MR. WATKINS: Other questions on top of</p> <p>8 that, too?</p> <p>9 MR. CHALLY: I'll have 10 or 15 minutes.</p> <p>10 MR. WATKINS: Okay. I'll ask you to --</p> <p>11 BY MR. COX:</p> <p>12 Q. Okay. Do you recall who else from Bechtel</p> <p>13 was present at the October 2015 presentation?</p> <p>14 A. The only specific individual I recall</p> <p>15 being there from Bechtel was a gentleman whose first</p> <p>16 name was Jason. I don't remember Jason's last name.</p> <p>17 I recall he was the one that presented the schedule</p> <p>18 information as part of the assessment.</p> <p>19 Q. Did you have any conversations with him</p> <p>20 outside of his presentation?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Do you currently hold any SCANA stock?</p> <p>23 A. Yes, I do.</p> <p>24 Q. How much stock do you hold in SCANA?</p> <p>25 A. I honestly don't know the exact amount.</p>	<p>1 and I have an accumulated cash balance in that plan</p> <p>2 that's vested. I have not done anything with those</p> <p>3 amounts at this point. They're still -- still</p> <p>4 invested or still in the Retirement Plan.</p> <p>5 I have an option, like all other</p> <p>6 employees, if I desire to convert that to an annuity,</p> <p>7 but I've not made any decisions at this point to do</p> <p>8 that.</p> <p>9 Q. How much is the balance in that plan?</p> <p>10 MR. WATKINS: Objection to form.</p> <p>11 THE WITNESS: I don't know the exact</p> <p>12 balance in the SCANA plan. My account, I</p> <p>13 believe, is around a million dollars.</p> <p>14 BY MR. COX:</p> <p>15 Q. Have you been contacted by any</p> <p>16 representatives of any law enforcement agencies about</p> <p>17 the project?</p> <p>18 MR. WATKINS: Objection to the form of the</p> <p>19 question.</p> <p>20 THE WITNESS: I have not directly been</p> <p>21 contacted, no.</p> <p>22 BY MR. COX:</p> <p>23 Q. Have your attorneys been contacted?</p> <p>24 (Instruction not to answer.)</p> <p>25 MR. WATKINS: I'm going to object to the</p>



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<p>1 form of the question, and I'm going to instruct</p> <p>2 you not to discuss the substance of any</p> <p>3 attorney-client communications.</p> <p>4 THE WITNESS: I believe those discussions</p> <p>5 are privileged with counsel.</p> <p>6 BY MR. COX:</p> <p>7 Q. Have you given any interviews to any law</p> <p>8 enforcement agencies regarding the project?</p> <p>9 MR. WATKINS: Let me think, as it's late</p> <p>10 in the day.</p> <p>11 I'll object to the form of the question.</p> <p>12 But you may answer the question, with that</p> <p>13 objection.</p> <p>14 THE WITNESS: With my understanding, no, I</p> <p>15 haven't, based on my understanding.</p> <p>16 BY MR. COX:</p> <p>17 Q. What city do you currently reside in?</p> <p>18 A. I currently reside in Irmo, South</p> <p>19 Carolina.</p> <p>20 Q. Are you scheduled to be at home during the</p> <p>21 month of November?</p> <p>22 A. I will be at home some dates in November.</p> <p>23 I do have travel plans for Thanksgiving. I have</p> <p>24 travel plans for the remainder of this week, and I'm</p> <p>25 sure there's some other days I'm unavailable.</p>	<p>1 towards the end of the project just to keep up with</p> <p>2 project status.</p> <p>3 But for me and Lonnie directly, it was</p> <p>4 pretty much if you need me, you call me. And</p> <p>5 depending on what the issues were, I could talk to</p> <p>6 him four or five times in a week or I might not talk</p> <p>7 to him for a week to two weeks, depending on just</p> <p>8 activities I was related in, connected with the</p> <p>9 project.</p> <p>10 Q. Did you have a practice of using a</p> <p>11 particular form of communication: E-mail, phone,</p> <p>12 letters?</p> <p>13 A. I prefer conversation either through the</p> <p>14 phone or face-to-face. I'm not a big letter-writer.</p> <p>15 I don't think most of my communications were done by</p> <p>16 e-mail unless I felt the need to respond to a</p> <p>17 particular e-mail.</p> <p>18 Q. We saw some e-mails and letters written by</p> <p>19 Lonnie Carter to you related to the project today.</p> <p>20 Did you make it a practice of responding</p> <p>21 to communications that Mr. Carter sent to you related</p> <p>22 to the project?</p> <p>23 A. I believe, as a matter of practice, I</p> <p>24 did -- I did my best to make sure either I responded</p> <p>25 or I asked someone who might have been more familiar</p>
Page 311	Page 313
<p>1 I believe my wife has some doctors'</p> <p>2 appointments or other schedules that would require me</p> <p>3 to be home.</p> <p>4 MR. COX: I have no more questions.</p> <p>5 EXAMINATION</p> <p>6 BY MR. CHALLY:</p> <p>7 Q. Okay. Mr. Marsh, my name is Jon Chally</p> <p>8 for the record. I represent SCE&amp;G in this case. I</p> <p>9 just have a few follow-up questions for you.</p> <p>10 Can you generally describe for us your</p> <p>11 relationship with Lonnie Carter?</p> <p>12 A. Sure. I've known Lonnie for a long time.</p> <p>13 He's a long-term employee of Santee Cooper as I'm a</p> <p>14 long term employee of SCANA and SCE&amp;G. We have</p> <p>15 worked together in a couple of different capacities</p> <p>16 along the way. For example, we were both chief</p> <p>17 financial officers at one time, so we have both</p> <p>18 crossed that bridge together. I've dealt with Lonnie</p> <p>19 off and on throughout my career in all those</p> <p>20 different roles.</p> <p>21 Q. About how frequently were you two in</p> <p>22 communication about the project?</p> <p>23 A. There was no set time that Lonnie and I</p> <p>24 would set aside for, you know, just general</p> <p>25 discussions. We did set some regular meetings</p>	<p>1 with the issue that Lonnie had raised to respond.</p> <p>2 That was more often the case because I didn't have</p> <p>3 all the direct detail knowledge of the project.</p> <p>4 Q. And you understood that Lonnie expressed</p> <p>5 concerns related to the project over the life of the</p> <p>6 project, right?</p> <p>7 A. I do. Lonnie and I had had a number of</p> <p>8 conversations regarding concerns throughout the life</p> <p>9 of the project.</p> <p>10 Q. Was it your practice to not only respond</p> <p>11 to the communication which Lonnie raised that</p> <p>12 concern, but to respond to the substance of the</p> <p>13 concern as well?</p> <p>14 A. I certainly made my best efforts to do</p> <p>15 that.</p> <p>16 Q. Okay. We saw -- Mr. Cox walked you</p> <p>17 through this document?</p> <p>18 A. Number 17.</p> <p>19 Q. Yeah, Exhibit 17. I just have a couple</p> <p>20 follow-up questions related to it.</p> <p>21 You said you received this document as an</p> <p>22 attachment to an e-mail, I believe; is that right?</p> <p>23 A. That's my recollection.</p> <p>24 Q. Okay. What was your reaction to receiving</p> <p>25 this document?</p>

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<p>1 A. I was -- my initial reaction was I was 2 shocked, given my relationship with Lonnie. This is 3 not the normal communication I would expect to get 4 from Lonnie. It didn't appear to me that it was 5 something that he would write.</p> <p>6 And I was -- I was offended. I didn't 7 believe it was a complete and accurate discussion of 8 the issues he tried to raise in the report.</p> <p>9 And it -- it appeared to me to be a 10 deliberate attempt by someone to make the SCANA 11 teams' efforts look less than genuine in trying to 12 resolve issues on the project.</p> <p>13 Q. Would you agree with that characterization 14 as you understood it?</p> <p>15 A. Did Lonnie agree with that?</p> <p>16 Q. Did you agree with that characterization 17 as you understood it?</p> <p>18 A. I agreed with -- I mean, I agreed that I 19 didn't think it was a fair and complete 20 characterization.</p> <p>21 Q. My question was a bad one.</p> <p>22 You had said -- you had said that this 23 appeared to be a deliberate attempt by someone to 24 make the SCANA teams' efforts look less than genuine.</p> <p>25 And what I want to make sure we're clear</p>	<p>1 Lonnie. I couldn't believe that -- that he would 2 write it. I didn't think it was a complete and 3 accurate reflection of all the efforts both of our 4 companies had done to make this project successful 5 and that it wasn't the way I was accustomed to doing 6 business with Lonnie.</p> <p>7 Q. What made you believe that he didn't write 8 the letter?</p> <p>9 A. I've gotten enough communication from 10 Lonnie that it just didn't seem consistent with the 11 way he would write a letter.</p> <p>12 Q. Okay. Did Mr. Carter respond to your 13 comments that you just described in this meeting?</p> <p>14 A. He did. He indicated that he didn't write 15 the letter. As I recall, he indicated that Mike 16 Baxley, their general counsel, had written the letter 17 and apologized for the tone in the letter.</p> <p>18 And we followed that up with about an 19 hour, hour and a half conversation of where we were 20 on the project.</p> <p>21 We had a meeting coming up with his board 22 of directors the following week. We talked for a 23 while about what we could do to communicate to their 24 board actions that had taken place that Lonnie and I 25 had agreed to, to help make the project more</p>
Page 315	Page 317
<p>1 on is: Did you agree with the -- with this attempt 2 that -- to characterize SCANA's efforts as less than 3 genuine?</p> <p>4 A. I'm not sure I understand your question.</p> <p>5 Q. Did you think SCANA was acting in a way, 6 less than genuine, during its oversight of the 7 project?</p> <p>8 A. Absolutely not. We were open and honest, 9 in my opinion, with all of our communications with 10 Santee throughout the project. As they raised 11 concerns, I believe our -- our nuclear construction 12 team did their best to resolve those.</p> <p>13 If it was something I could resolve with 14 Lonnie, I certainly feel like I made every effort to 15 do that.</p> <p>16 Q. Okay. Did you discuss this letter with 17 Mr. Carter after he -- or this document with 18 Mr. Carter after he transmitted it to you?</p> <p>19 A. I did. Lonnie and his team were scheduled 20 to come have a meeting with me and some other nuclear 21 project representatives, I believe it was, on a 22 Thursday or Friday of the week I got this letter.</p> <p>23 When Lonnie got there, I called Lonnie 24 into my office and told him I was disappointed and 25 surprised that I would get a letter like this from</p>	<p>1 successful, to keep his board updated because they 2 wanted to have a good status updates on the project, 3 and left the meeting, I believe, in -- in good stead.</p> <p>4 He said he apologized for the tone of the 5 letter, and we worked through a lot of issues in that 6 discussion and got prepared to make a presentation to 7 his board the following week.</p> <p>8 Q. Okay. One last topic. Mr. Cox walked you 9 through some aspects of the 2015 testimony submitted 10 to the Public Service Commission and specifically 11 your testimony where you noted that SCE&amp;G was 12 challenging certain costs that were included in the 13 consortium's estimated completion provided earlier, 14 prior to that testimony.</p> <p>15 Do you recall generally that discussion 16 you had with Mr. Cox?</p> <p>17 A. I do.</p> <p>18 Q. Okay. And you -- do you recall that SCE&amp;G 19 was presenting in 2015 in the testimony you provided 20 that the consortium's estimated costs for completion 21 of the project?</p> <p>22 A. I do.</p> <p>23 Q. Okay. And is that -- not only that was in 24 your testimony, but also Mr. Byrne's testimony and 25 Ms. Walker's testimony. Those costs, Westinghouse's</p>

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1 estimated costs, were based in part on Westinghouse's  
2 estimated schedule; isn't that right?

3 A. That's correct.

4 Q. Okay. So the -- is it -- is it a fair  
5 characterization of the disputed costs to say that  
6 SCE&G was reserving its ability to challenge certain  
7 specific categories of costs as not SCE&G's  
8 responsibility under the EPC contract?

9 A. Yes, we did. We made that clear in the  
10 testimony.

11 Q. Okay. Were you -- was SCE&G refuting  
12 Westinghouse's schedule analysis by disputing those  
13 costs?

14 A. No. I think we stated in Mr. Byrne's  
15 testimony, as I recall, that we weren't disputing the  
16 amounts calculated by Westinghouse in their estimate  
17 as their estimated completion or the schedule that  
18 they had presented to us. We believed that was the  
19 best available information at the time and that that  
20 was the appropriate number to be filed with the  
21 Commission under the rules of the Base Load Review  
22 Act.

23 However, we did inform the Commission that  
24 we were disputing some of the costs that were in that  
25 schedule, not that they wouldn't be spent or that

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1 they weren't accurate, but whether or not we were  
2 required to pay those costs.

3 Those were the issues that were at  
4 dispute. And so we also -- we highlighted that for  
5 the Commission.

6 And we also made some adjustments for  
7 amounts we didn't believe we were obligated to pay  
8 under the contract regarding some of those disputed  
9 costs until those disputes could be resolved.

10 Q. Okay. But SCE&G was not disputing the  
11 schedule estimates that Westinghouse had provided,  
12 right?

13 A. No, we were not.

14 Q. Or the costs that flowed from the --  
15 directly from the schedule estimates that  
16 Westinghouse had provided?

17 A. No, we were not.

18 MR. CHALLY: Okay. That's all I've got.  
19 Thank you.

20 MR. ELLERBE: No questions from me.

21 MR. WATKINS: Nothing for me.

22 VIDEOGRAPHER: The time is 6:18 p.m., and  
23 this concludes today's deposition.

24 (Time Noted: 6:18 p.m.)

25 (Signature reserved.)

Kevin Marsh

1 SIGNATURE OF DEPONENT

2 I, the undersigned, KEVIN MARSH, do hereby  
3 certify that I have read the foregoing deposition  
4 transcript and find it to be a true and accurate  
5 transcription of my testimony, with the following  
6 corrections, if any:

7 PAGE LINE CHANGE

8	_____	_____	_____
9	_____	_____	_____
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23 \_\_\_\_\_  
24 KEVIN MARSH

25

## 1 CERTIFICATE OF REPORTER

2 I, Karen K. Kidwell, Registered Merit  
3 Reporter and Notary Public for the State of South  
4 Carolina at Large, do hereby certify:

5 That the foregoing deposition was taken  
6 before me on the date and at the time and location  
7 stated on page 1 of this transcript; that the  
8 deponent was duly sworn to testify to the truth, the  
9 whole truth and nothing but the truth; that the  
10 testimony of the deponent and all objections made at  
11 the time of the examination were recorded  
12 stenographically by me and were thereafter  
13 transcribed; that the foregoing deposition as typed  
14 is a true, accurate and complete record of the  
15 testimony of the deponent and of all objections made  
16 at the time of the examination to the best of my  
17 ability.

18 I further certify that I am neither related  
19 to nor counsel for any party to the cause pending or  
20 interested in the events thereof. Witness my hand  
21 this 31st day of October, 2018.

22  
23  
24  
25  
\_\_\_\_\_  
26 Karen K. Kidwell,  
27 Registered Merit Reporter  
28 Notary Public  
29 State of South Carolina at Large  
30 My Commission expires:  
31 August 21, 2024

1 some of the most comprehensive testimony that it  
2 has ever presented to this Commission. But you  
3 don't need to hear from me on these issues.  
4 SCE&G's leadership is going to appear before you  
5 during the course of this hearing and they're going  
6 to explain to you why nuclear technology is not  
7 only the best option for its customers, but it's  
8 also the best option for the State of South  
9 Carolina, and therefore, we would respectfully  
10 submit to this Commission that you approve the  
11 combined application that is before you, and issue  
12 a Base Load Review order.

13 With that being said, SCE&G calls its first  
14 witness, its president and chief operating officer,  
15 Kevin Marsh to the stand.

16 THEREUPON came,

17 KEVIN B. MARSH,  
18 called as a witness on behalf of the Applicant, who, having  
19 been first duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. BURGESS:

22 Q Please state your name for the record.

23 A Kevin Marsh.

24 Q Mr. Marsh, by whom are you employed and in what  
25 capacity?

EXHIBIT	1
WIT:	Marsh
DATE:	10-29-18
K. KIDWELL, RMR, CRR, CRC	

VOLUME 2

1 **A** I'm the president and chief operating officer employed  
2 by South Carolina Electric & Gas Company.

3 **Q** And have you caused to be prefilled in this docket direct  
4 testimony consisting of 42 pages?

5 **A** Yes, I have.

6 **Q** And are there any changes or corrections you would like  
7 to make to your direct testimony?

8 **A** No, I have no changes.

9 **Q** So if I asked you the very same questions that are  
10 contained in your prefilled direct testimony, would those  
11 answers be the same today?

12 **A** They would.

13 **MR. BURGESS:** Madam Chairman, at this time we  
14 would move into the record of evidence the direct  
15 testimony of Kevin Marsh as if given orally from  
16 the stand.

17 **CHAIRMAN FLEMING:** Yes, Kevin Marsh's  
18 testimony will be read into the -- prefilled  
19 testimony will be read into the record as if given  
20 orally from the stand.

21 **MR. BURGESS:** Thank you, Madam Chairman.

22

23

24 [PREFILED DIRECT TESTIMONY OF KEVIN B.

25 MARSH FOLLOWS AT PGS 143-184]

VOLUME 2

**DIRECT TESTIMONY OF**

**KEVIN B. MARSH**

**ON BEHALF OF**

**SOUTH CAROLINA ELECTRIC & GAS COMPANY**

**DOCKET NO. 2008-196-E**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION.**

**A.** My name is Kevin B. Marsh and my business address is 1426 Main Street, Columbia, South Carolina. I am President and Chief Operating Officer of South Carolina Electric & Gas Company ("SCE&G" or the "Company").

**Q. DESCRIBE YOUR EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE.**

**A.** I am a graduate, magna cum laude, of the University of Georgia, with a Bachelor of Business Administration Degree. Prior to joining SCE&G, I was employed by the public accounting firm of Deloitte & Touche. I joined SCE&G in 1984 and have served as Controller, Vice President of Corporate Planning, and from 1996 to 2006 I served as Senior Vice President and Chief Financial Officer of SCE&G and SCANA. As Vice President of Corporate Planning for SCE&G, I oversaw the planning effort that resulted in construction of SCE&G's Cope Station coal-fired



1 generating plant in the 1991-1996 time period. From 2001-2003, while  
2 serving as CFO of SCE&G and SCANA, I also served as President and  
3 Chief Operating Officer of PSNC Energy. In May of 2006, I was named  
4 President and Chief Operating Officer of SCE&G.

5 **Q. HAVE YOU EVER TESTIFIED BEFORE THIS COMMISSION IN**  
6 **THE PAST?**

7 **A.** Yes. I have testified in a number of different proceedings, including:

- 8 a) The 1986 proceedings to place in rates the last increment of  
9 investment subject to the electric capacity phase-in plan that was  
10 adopted when V. C. Summer Nuclear Station ("VCSNS") Unit 1  
11 was placed in service in 1984;
- 12 b) The 1991 and 1992 proceedings to site the Cope Generating Station  
13 and to place the initial investment in it into electric rates; and
- 14 c) The proceedings to place into electric rates the Company's  
15 investment in the Urquhart Repowering Project (2002) and the  
16 Jasper Generating Station (2004).

17 **Q. WHAT SUBJECTS DO YOU DISCUSS IN YOUR TESTIMONY?**

18 **A.** My testimony discusses how SCE&G's leadership assessed the  
19 needs of its system for new base load capacity in the 2016-2019 time frame  
20 and how the Company evaluated the options available to meet those needs.  
21 My testimony also discusses the decision to partner with the South Carolina  
22 Public Service Authority ("Santee Cooper") to construct two new AP1000

1 units as VCSNS Units 2 & 3. I will show how this decision supports the  
 2 needs and interests of the people SCE&G serves, and how it is consistent  
 3 with SCE&G's long-standing commitment to function as an integrated  
 4 electric utility that is willing to bear the risk of building the principal base-  
 5 load units that serve its customers. My testimony discusses how SCE&G  
 6 has evaluated the risks of nuclear construction and the challenges SCE&G  
 7 faces in constructing and financing these units. My testimony also  
 8 introduces the testimony of the other Company's witnesses in this case.  
 9

#### 10 **SCE&G WITNESSES**

11 **Q. WHO ARE THE OTHER WITNESSES THAT WILL PROVIDE**  
 12 **DIRECT TESTIMONY FOR SCE&G?**

13 **A.** The other SCE&G witnesses providing direct testimony are:

14 1. **Jimmy E. Addison**, Senior Vice President and Chief  
 15 Financial Officer of SCANA and SCE&G. Mr. Addison will present an  
 16 overview of the financial position of SCE&G and will discuss the capital  
 17 requirements of building VCSNS Units 2 & 3 and the rate impacts of those  
 18 expenditures of capital; the importance to the financial community of the  
 19 Base Load Review Act and the order in this proceeding; and SCE&G's  
 20 financial ability to sustain the investment required to build the units  
 21 successfully. Mr. Addison will also present the return on equity established

1 in SCE&G's last base rate proceeding as the return on equity to apply in  
2 establishing revised rates in this proceeding.

3 2. **Stephen A. Byrne**, Senior Vice President for Generation and  
4 Chief Nuclear Officer of SCE&G. Mr. Byrne will discuss the selection of  
5 nuclear units as the preferred technology to meet SCE&G's need for base  
6 load generation and will review the selection and advantages of the  
7 Jenkinsville site; the choice of Westinghouse AP1000 units; and the choice  
8 of Westinghouse/Stone & Webster as the contractors to build those units.  
9 Mr. Byrne will also present and explain the structure of the Engineering,  
10 Procurement and Construction Agreement (the "EPC Contract"), and the  
11 contingencies contained in the Combined Application in this proceeding.  
12 He will explain how the Company will manage the VCSNS Units 2 & 3  
13 construction project and oversee the EPC contractors. Mr. Byrne will  
14 review and explain risk factors related to the construction program; issues  
15 related to spent fuel storage and disposal, and decommissioning; the  
16 Nuclear Regulatory Commission ("NRC") permitting process; and the  
17 overall construction schedule for the Units.

18 3. **Dr. Joseph M. Lynch**, Manager of Resource Planning,  
19 SCANA Services, Inc. Dr. Lynch will sponsor the studies that establish the  
20 need for additional base load generation in the 2016 time period, and that  
21 establish the relative economics of nuclear and non-nuclear generation

1 alternatives. He will also review the process by which generation  
2 alternatives are reviewed by the Company.

3 4. **David K. Pickles**, Vice President, ICF International, Mr.  
4 Pickles will testify concerning energy efficiency and load management  
5 issues as well as SCE&G's comprehensive energy efficiency and demand  
6 side management review and evaluation initiative for 2009.

7 5. **Stephen E. Summer**, Senior Environmental Specialist,  
8 SCANA Services, Inc. Mr. Summer will provide an overview of  
9 environmental permits required for VCSNS Units 2 & 3 and the seismic  
10 and environmental studies conducted at the site. His testimony will  
11 establish the Company's ability to conform to the applicable environmental  
12 laws and regulations related to the Units.

13 6. **Robert B. Whorton**, Senior Engineer, SCE&G. Mr.  
14 Whorton will testify concerning seismic, geotechnical and geological  
15 conditions at the Jenkinsville site.

16 7. **Steven H. Connor**, Tetra Tech, NUS, Inc., Project Manager.  
17 Mr. Connor will sponsor the environmental report establishing the  
18 environmental suitability of the Jenkinsville site for new nuclear generation  
19 units and will present a synopsis of the extensive site characterization  
20 studies and other site and environmental information filed with the NRC in  
21 the Combined Operating License Application (the "COLA").

1                   8.     **E. Elizabeth Best**, Director of Financial Planning & Investor  
2                   Relations, SCANA Services, Inc. Ms. Best will sponsor the financial and  
3                   cost projections related to the VCSNS Units 2 & 3 construction program,  
4                   including the inflation indices and contingency amounts included in those  
5                   projections. Ms. Best will present the capital structure and cost of capital  
6                   for SCE&G and schedules of anticipated capital expenditures during the  
7                   construction period. She will also sponsor the current estimates of in-  
8                   service expenses for each unit after start-up.

9                   9.     **Kenneth R. Jackson**, Vice President, Regulatory Matters,  
10                  SCANA Services, Inc., Mr. Jackson will sponsor the tariff sheets for the  
11                  initial rate increase. He will present the rate design and the peak demand  
12                  allocators as well as other information on which the revised rates request in  
13                  this proceeding are based.

14                10.    **Hubert C. Young, III**, Manager, SCE&G Transmission  
15                Planning, SCE&G. Mr. Young will present the transmission  
16                interconnection studies that have determined the transmission facilities that  
17                SCE&G will be required to build to connect VCSNS Units 2 & 3 to the  
18                transmission grid, and will present the cost estimates for those facilities.

**OVERVIEW OF SCE&G'S GENERATING SYSTEM**

**Q. PLEASE GIVE A SHORT DESCRIPTION OF SCE&G'S ELECTRIC SERVICE TERRITORY AND GENERATING FACILITIES.**

**A. SCE&G operates an integrated electric utility system that serves over 640,000 customers in 24 counties in central and southern South Carolina. SCE&G owns and/or operates ten (10) coal-fired fossil fuel units (2,484 MW), one (1) cogeneration facility (90 MW), eight (8) combined cycle gas turbine/steam generator units (gas/oil fired, 1,319 MW), eighteen (18) peaking turbines (347 MW), five (5) hydroelectric generating plants (227 MW), and one pump storage facility (576 MW). The total net non-nuclear summer generating capability rating of these facilities is 5,043 megawatts. In addition, SCE&G operates the V.C. Summer Nuclear Station ("VCSNS Unit 1" or "Summer Station") which it owns jointly with the South Carolina Public Service Authority or Santee Cooper. Summer Station was originally rated to generate 900 MW but over the years SCE&G and Santee Cooper have invested capital to increase the net dependable output of the plant to 966 MW on a sustained, reliable basis. Combining SCE&G's fossil-hydro capacity with its two-thirds interest in VCSNS Unit 1, the total net generating capability of all SCE&G facilities is 5,687 MW. When our South Eastern Power Authority contracts (33MWs) and a long-term purchase (25 MWs) from Santee Cooper are considered, our total supply capacity is 5,745 MWs.**

1   **Q.    WHAT WAS SCE&G'S PEAK DEMAND AND RESERVE MARGIN**  
2       **IN 2007?**

3   **A.**       In 2007, SCE&G's peak demand was 5,248 MW including a 250  
4       MW firm sale to the North Carolina Electric Membership Corporation  
5       which when compared to the Company's net generating capability provides  
6       for a reserve margin of approximately 9%.

7   **Q.    HOW MUCH ELECTRICITY WAS GENERATED BY SCE&G IN**  
8       **2007?**

9   **A.**       In 2007, SCE&G generated 26,242,850 megawatt hours of energy.  
10       Of this energy, the fossil steam plants generated 65%, the nuclear plant  
11       generated 18%, the combined cycle natural gas units generated 12%, and  
12       the gas peaking turbines and hydro facilities generated 5%.

13

14   **IDENTIFICATION OF THE NEED FOR NEW BASE LOAD CAPACITY**

15   **Q.    PLEASE DESCRIBE THE PROCESS BY WHICH SCE&G**  
16       **IDENTIFIED THE NEED FOR NEW BASE LOAD GENERATION**  
17       **IN THE 2016-2019 TIME PERIOD.**

18   **A.**       As the Commission is aware, SCE&G's resource planning  
19       department, which is headed by Dr. Lynch, regularly monitors the growth  
20       of customer requirements on SCE&G's electric system and evaluates the  
21       potential means of fulfilling those requirements. In its 2006 Integrated  
22       Resource Plan, SCE&G discussed the need for additional generation

1 resources on its system in the 2016-2019 time period. Given the amount of  
2 the load growth that had occurred on SCE&G's system in the past decade  
3 and the declining percentage of base load generation in SCE&G's  
4 generation mix, the Company determined that the requirements for new  
5 generation should be met by building additional base load generation  
6 capacity.

7 **Q. PLEASE DEFINE BASE LOAD GENERATION.**

8 A. Base load plants are fuel efficient generating units that are designed  
9 and intended to run for extended periods of time and at high capacity  
10 factors, *i.e.*, thousands of hours a year. These plants supply the bulk of  
11 customers' needs for both electric energy and capacity year in and year out  
12 and are the foundation on which an electric system operates. In 2007, base  
13 load plants generated over 80% of SCE&G's energy.

14 **Q. WHAT TYPES OF PLANTS DO YOU CONSIDER TO BE BASE**  
15 **LOAD UNITS?**

16 A. Base load plants are typically either coal or nuclear fired plants.  
17 These plants have relatively low fuel costs per kilowatt hour (KWH) of  
18 electricity generated, but are more expensive to build than intermediate and  
19 peaking units.  
20  
21



1   **Q.    WHAT NEEDS ARE MET BY INTERMEDIATE AND PEAKING**  
2   **UNITS?**

3   **A.**           Intermediate and peaking units, supplemented by hydroelectric  
4           plants and alternative energy sources, supply customers with the less than  
5           20% of energy and capacity that is not supplied by base load plants. While  
6           intermediate and peaking units have lower capital costs than base load  
7           plants, these plants typically have higher fuel costs and are intended to run  
8           fewer hours per year than base load plants.

9   **Q.    WHAT KINDS OF PLANTS ARE BUILT TODAY AS**  
10   **INTERMEDIATE AND PEAKING UNITS?**

11   **A.**           Most intermediate plants built today are combined cycle natural gas  
12           plants. These plants include natural gas fired internal combustion turbines  
13           that power electric generators and are coupled with heat recovery boilers  
14           and steam turbines to recover energy from the exhaust stream of the gas  
15           turbines.

16           Most peaking plants built today are simple cycle gas plants. These  
17           are internal combustion gas turbines without heat recovery boilers. The  
18           lack of a heat recovery boiler makes these plants less expensive and easier  
19           to build than combined cycle plants, but limits their fuel efficiency.

20

1   **Q.   WHAT HAS CREATED THE NEED FOR BASE LOAD**  
2       **GENERATION ON SCE&G'S SYSTEM IN THE 2016-2019**  
3       **PERIOD?**

4   **A.**       The need for additional base load generation on SCE&G's system is  
5       the result of growth and development in the Company's service territory,  
6       which includes a number of the most rapidly growing areas of South  
7       Carolina, particularly the areas near Charleston, Beaufort, Northeast  
8       Columbia and Lexington. While energy use by some traditional industrial  
9       energy users like textile manufacturers has declined, our State's economy  
10      has continued to grow in other areas of industry and manufacturing. In  
11      addition, residential, commercial and retirement growth continues at a rapid  
12      pace.

13   **Q.   CAN YOU QUANTIFY THIS GROWTH FROM AN ELECTRIC**  
14      **PERSPECTIVE?**

15   **A.**       Yes. Over the past twelve years, SCE&G has added approximately  
16      149,000 new customers, which amounts to a 31% percent increase in our  
17      customer base over that period. During that period, net of retirements,  
18      SCE&G installed 2,413 miles of new overhead line, 3,014 miles of new  
19      underground line, 86,065 new distribution transformers and 139,988 new  
20      service poles to serve customers on its system.

21

1   **Q.    WHAT IS YOUR VIEW OF THE PROSPECTS FOR CONTINUED**  
2   **GROWTH IN SCE&G'S TERRITORY?**

3   A.       Recent economic uncertainties notwithstanding, central and coastal  
4       South Carolina continue to be very attractive places for new residential and  
5       commercial growth. The southeastern United States is one of the most  
6       rapidly growing regions in the United States. Within our region, the  
7       attractiveness of South Carolina for potential growth has increased as other  
8       Southern states like Florida and North Carolina have become more crowded  
9       and land and construction have become more expensive. Florida in  
10      particular has suffered recently from its exposure to hurricanes. We believe  
11      that over the medium to long term, growth will continue in South Carolina  
12      at rates that are consistent with past rates of growth. As the electric service  
13      provider to approximately one-fourth of the customers in the State, SCE&G  
14      is responsible for ensuring that sufficient electric power is available on its  
15      system to serve both new and existing customers as this growth proceeds.

16   **Q.    WHAT PREDICTIONS OF FUTURE GROWTH HAS THE STATE**  
17   **OF SOUTH CAROLINA MADE?**

18   A.       According to the *Global Insights*, South Carolina's population will  
19       grow by over 10% between 2008 and 2016. Specific county growth rates  
20       include:  
21

1

AREA	2008	2016	Percent Change	2019	Percent Change
Aiken County, SC	154,370	168,020	8.8%	173,200	12.2%
Beaufort County, SC	151,230	179,300	18.6%	187,270	23.8%
Charleston County, SC	345,780	368,590	6.6%	381,230	10.3%
Dorchester County, SC	129,090	156,830	21.5%	163,970	27.0%
Lexington County, SC	248,330	279,290	12.5%	290,120	16.8%
Richland County, SC	364,160	402,510	10.5%	416,180	14.3%
South Carolina	4,487,540	4,945,900	10.2%	5,106,000	13.8%

2

3 To keep pace with this growth and to meet its service obligations,  
4 SCE&G will have to add significant new generation capacity to its  
5 electrical system.

6

#### **EXISTING RESOURCES**

7 **Q. WHEN DID SCE&G LAST ADD BASE LOAD GENERATION TO**  
8 **ITS SYSTEM?**

9 A. SCE&G last added base load generation to its electric system when  
10 Cope Station went into commercial operation in 1996. Cope Station is a  
11 420 MW pulverized coal plant located in Orangeburg County.

12 **Q. HOW HAS CUSTOMER DEMAND ON SCE&G'S SYSTEM**  
13 **CHANGED SINCE THAT TIME?**

14 A. Since 1996, energy use on SCE&G's system has grown by 5,880  
15 gigawatt hours (GWH) or 31%. By 2016, energy use on the system is  
16 forecasted to have grown by an additional 2,499 GWH, for a total growth  
17 of 44% since Cope entered service. By 2019, energy use is forecasted to

1 have grown by an additional 1,671 GWH for a total growth of 53% since  
2 Cope entered service.

3 **Q. WHAT MODELING AND FORECASTING WAS DONE TO**  
4 **QUANTIFY SCE&G'S NEED FOR ADDITIONAL BASE LOAD**  
5 **GENERATION IN THE 2016-2019 PERIOD?**

6 A. Extensive modeling and forecasting had been done over a number of  
7 years that identified the need for additional base load generation in the  
8 2016-2019 time period. Dr. Lynch will testify in more detail concerning  
9 the modeling and forecasting that his department regularly conducts of  
10 SCE&G's territorial demand and options for serving it. He will also testify  
11 concerning the specific modeling and forecasting that led his group to  
12 identify the need for additional base load capacity in the 2016-2019 time  
13 period and validated the fact that two Westinghouse AP1000 units,  
14 constructed in partnership with Santee Cooper, were the most appropriate  
15 and prudent means to meet that need.

16 **Q. WHAT EXPERIENCE DOES DR. LYNCH HAVE IN**  
17 **FORECASTING ELECTRIC LOADS ON SCE&G'S SYSTEM?**

18 A. Dr. Lynch has more than 30 years experience in forecasting electric  
19 use on SCE&G's system and he and his staff know SCE&G's system,  
20 service territory and customer needs very well. As a member of the  
21 SCE&G leadership team, I have worked with Dr. Lynch's group  
22 extensively for over 15 years. I have found his group's work to be

1 technically accurate and to reflect excellent judgment and a great deal of  
2 experience concerning how best to meet the needs of SCE&G's system and  
3 customers.

4 **Q. HOW DOES DR. LYNCH'S CONCLUSION CONCERNING THE**  
5 **NEED FOR BASE LOAD GENERATION COMPARE WITH YOUR**  
6 **OPERATING KNOWLEDGE OF SCE&G'S SYSTEM?**

7 A. Dr. Lynch's determination that additional base load capacity is  
8 needed in the ~~2016-2019~~ period comports well with the Company's  
9 understanding of its operational needs and the current status of its  
10 generation fleet. Considering the recent and continuing growth in our  
11 territory, and the 12-year period since base load generation was last added  
12 to our system, it is entirely logical that SCE&G would be considering  
13 adding 614 MW of base load capacity in 2016, and an additional 614 MW  
14 in 2019.

15 **Q. PLEASE EXPLAIN.**

16 A. As indicated above, SCE&G last added a base load unit to its system  
17 12 years ago. In the ensuing years, SCE&G has met increased load through  
18 the addition of intermediate and peaking generation resources to the  
19 system. Specifically, SCE&G added the 852 MW Jasper Station combined  
20 cycle unit to its system in 2004, and repowered Urquart Units 1 & 2 from  
21 coal to natural gas in 2002. The Urquart repowering added 317 MW of net  
22 new capacity to the system.

1           While these are efficient and valuable plants, they do not have the  
2           low fuel costs associated with true base load plants. As load has grown,  
3           SCE&G has been required to rely increasingly on these intermediate plants,  
4           and on its fleet of aging coal fired units to meet customers' demands.

5   **Q. CAN YOU QUANTIFY THESE CHANGES?**

6   **A.**           Yes. The percentage of base load capacity on SCE&G's system  
7           declined from over 75% to 56% during the period 1996-2007. Nonetheless,  
8           during 2007, the 56% of our generation capacity represented by base load  
9           plants generated over 80% of the energy used on SCE&G's system. Going  
10          forward, the percentage of system capacity that is base load capacity will  
11          drop to 45% by 2020 unless SCE&G builds new base load capacity to meet  
12          forecasted demand growth.

13   **Q. WHAT IS THE AGE OF SCE&G'S BASE LOAD GENERATION**  
14   **ASSETS?**

15   **A.**           Sixty-four percent (64%) of SCE&G's 3,218 MW of base load  
16          capacity, or 2,064 MW, consists of coal plants that were built between 1953  
17          and 1973. These plants are on average more than 40 years old today and  
18          they will be on average more than 50 years old by 2019. Unless newer base  
19          load resources are added to the generation mix, SCE&G will have to rely  
20          on these older plants more and more intensely in future years.

1   **Q.   MR. MARSH, YOU HAVE REVIEWED THE LOAD FORECASTS**  
2       **WHICH IDENTIFY THE NEED FOR NEW BASE LOAD**  
3       **CAPACITY IN THE 2016-2019 PERIOD. WHAT IS YOUR**  
4       **OPINION CONCERNING THEM?**

5   **A.**       I believe that these forecasts are accurate and reliable based on the  
6       information available today. These studies forecast a forward-looking retail  
7       demand growth of 1.7% annually compared to an historical growth rate in  
8       2.5% range. This forecast reflects significant demand reductions due to  
9       anticipated improvements in the efficiency of lighting and appliances  
10      mandated by the Federal Government as well as the expiration of contracts  
11      for sales to wholesale customers. These growth forecasts do not include  
12      potential increases in demand due to new technologies like electric  
13      automobiles. To the extent there is any bias in these studies, that bias  
14      would be that the load growth projections contained in them are reasonably  
15      conservative because they project a lower growth in system load that could  
16      be justified under other, equally reasonable assumptions.

17   **Q.   IN YOUR OPINION, IS IT APPROPRIATE TO BASE A DECISION**  
18       **TO BUILD NEW BASE LOAD GENERATION ON STUDIES THAT**  
19       **TEND TOWARD CONSERVATISM IN FORECASTING**  
20       **GROWTH?**

21   **A.**       Yes, I believe that it is prudent to base the decision to build new base  
22      load generation on a forecast that tends towards conservatism because of



1 the long lead-times involved in permitting and siting base-load generation  
2 and the options that exist for responding to faster-than-expected load  
3 growth during the period by making off-system purchases or building  
4 additional peaking generation.

5  
6 **THE SELECTION OF NUCLEAR UNITS TO MEET BASE LOAD**

7 **REQUIREMENTS**

8 **Q. WHEN DID SCE&G BEGIN TO EVALUATE ITS OPTIONS FOR**  
9 **ADDING NUCLEAR GENERATION IN THE 2016-2019 TIME**  
10 **PERIOD?**

11 A. SCE&G began the process of evaluating nuclear generation load  
12 options in the 2005 time period.

13 **Q. WHEN WAS THE DECISION REQUIRED TO BE MADE?**

14 A. SCE&G determined that to meet its forecasted requirements for new  
15 base load generation it would need to make a decision as to the viability of  
16 constructing nuclear generation in the 2006-2008 time period. SCE&G has  
17 access to good information about the cost and feasibility of gas and coal  
18 facilities. As a result, the focus of the evaluation that SCE&G began in  
19 2005 was to develop a comparable understanding of the costs and  
20 feasibility of new nuclear capacity. This was particularly important given  
21 the increasing cost of environmentally compliant coal units, the likelihood  
22 of CO<sub>2</sub> regulation, and the increasing volatility of natural gas prices. As

1 SCE&G refined its understanding of new nuclear generation, it compared  
2 that information with information already available to it concerning the cost  
3 and risks of the coal and natural gas alternatives.

4 **Q. WHAT DID SCE&G CONCLUDE?**

5 A. After several years of intensive study, evaluation and negotiation, in  
6 May of 2008 SCE&G decided to proceed with the construction of two new  
7 AP1000 nuclear units that it will build in partnership with Santee Cooper.  
8 This decision was made after careful analysis of the data and analysis that  
9 our joint leadership team, including Santee Cooper, believed to be relevant  
10 and after intensive negotiations with the Westinghouse/Stone & Webster  
11 consortium to ensure a reasonable price and reasonable terms for the  
12 construction project.

13 **Q. PLEASE DESCRIBE HOW THE AP1000 UNIT WAS SELECTED.**

14 A. As Mr. Byrne will describe in more detail, in the 2005 time frame  
15 SCE&G's new nuclear deployment team solicited detailed information  
16 from the leading providers of nuclear generation units about the cost,  
17 characteristics and regulatory status of their designs. The available units  
18 were ranked based on both technical/regulatory and financial criteria. An  
19 initial selection of the Westinghouse AP1000 unit was made based on a  
20 number of factors which included its size, its passive design, its operational  
21 similarity to the existing VCSNS Unit 1, the fact that the NRC had issued a

1 nuclear design license for the unit, and the fact that there were opportunities  
2 to collaborate with other utilities in the licensing and engineering process.

3 The initial selection of AP1000 units was made in 2005-2006.

4 During 2006, SCE&G began negotiations with the consortium of  
5 Westinghouse/Stone & Webster for two AP1000 units. Those negotiations  
6 concluded in May of 2008 with the signing of the EPC Contract.

7 **Q. WHY DID SCE&G DECIDE ON TWO UNITS SHARED WITH**  
8 **SANTEE COOPER RATHER THAN ONE UNIT?**

9 A. Due to economies of scale and construction efficiencies, two units  
10 built in sequence are cheaper per kilowatt (KW) of capacity than is a single  
11 unit. In addition, by separating the commercial operation dates of the two  
12 units by thirty-three months SCE&G is better able to match the new  
13 generation capacity to the growth in load on its system. Because two full  
14 units would be more than SCE&G would need itself, the Company sought a  
15 joint venture partner to share the capacity and the cost. We believe Santee  
16 Cooper is an ideal partner to take a 45% share in the costs and capacity of  
17 each unit.

18 **Q. WHY IS SANTEE COOPER A GOOD PARTNER FOR THIS**  
19 **PROJECT?**

20 A. There are a number of reasons why Santee Cooper is such a good  
21 partner for this project.

- 1 • Santee Cooper needs the energy these units can generate due to growth
- 2 on its system.
- 3 • SCE&G and Santee Cooper jointly built VCSNS Unit 1 in the 1970s
- 4 and early 1980s and now have a 26 year history of successfully
- 5 operating that unit as joint owners. In fact, Santee Cooper already owns
- 6 a one-third interest in Unit 1 and many of the facilities that will jointly
- 7 support both the new and existing units.
- 8 • Santee Cooper is an agency of the State of South Carolina, with a solid
- 9 credit rating, and brings great financial strength to the project.

10 **Q. BETWEEN SCE&G AND SANTEE COOPER, WHAT**  
 11 **PERCENTAGE OF SOUTH CAROLINA'S ELECTRIC**  
 12 **CUSTOMERS WILL BE SERVED BY THESE NEW UNITS?**

13 **A.** By our calculation, almost 60% of the electric customers in South  
 14 Carolina are served either directly by SCE&G and Santee Cooper or are  
 15 served by electric cooperatives or municipal electric suppliers that receive  
 16 wholesale service from us.

17 **Q. PLEASE EXPLAIN HOW YOU CAME TO NEGOTIATE WITH A**  
 18 **CONSORTIUM OF WESTINGHOUSE AND STONE & WEBSTER.**

19 **A.** Before our negotiations with Westinghouse began, Westinghouse  
 20 had entered into an arrangement with Stone & Webster under which  
 21 ~~APPROX~~ units built in the United States would be engineered and  
 22 constructed by a consortium of the two companies. SCE&G believed there

1 to be significant benefits to this arrangement and did not object to it in the  
2 negotiations with Westinghouse.

3 **Q. WHY DID THIS ARRANGEMENT SEEM BENEFICIAL TO**  
4 **SCE&G?**

5 A. Stone & Webster is a very competent and experienced engineering  
6 and construction contractor for large construction and power generation  
7 projects, and built many of the nuclear units in service today. In addition,  
8 having a single construction company build multiple AP1000 units makes  
9 sense because it allows all owners of these units to benefit from the  
10 expertise Stone & Webster gains in the engineering and construction of  
11 multiple AP1000 units.

12 **Q. WHAT OTHER UTILITIES ARE CONSIDERING AP1000 UNITS?**

13 A. Duke Energy, Florida Power and Light, TVA, Progress Energy and  
14 Southern Company are considering the construction of AP1000 units for a  
15 total of 14 such units counting VCSNS Units 2 & 3. Westinghouse will  
16 provide the technology for four AP1000 units being built in China.

17 **Q. WHAT WAS THE PRINCIPAL ALTERNATIVE SCE&G**  
18 **CONSIDERED TO NEW NUCLEAR GENERATION?**

19 A. While the specific generation need that SCE&G identified in the  
20 2016-2019 period was for base load generation, SCE&G also considered an  
21 intermediate gas-fired combined cycle plant as an alternative to a base load  
22 coal or nuclear plant. An intermediate plant does not fit SCE&G's needs as

1 well as a base load plant, but from a pure cost perspective, a combined  
2 cycle gas plant was most competitive with nuclear generation, and was the  
3 principal alternative against which the nuclear plant was evaluated.

4 **Q. HOW DID COAL FIGURE INTO THIS ANALYSIS?**

5 A. A new coal plant was not competitive with combined cycle gas  
6 generation primarily due to the cost of constructing a fully  
7 environmentally-compliant coal plant as well as the cost of coal, and the  
8 potential costs associated with CO<sub>2</sub> emissions. As Dr. Lynch will testify,  
9 coal is competitive with nuclear only with the assumption that there is no  
10 cost associated with CO<sub>2</sub> emissions. That is not a reasonable assumption in  
11 today's political and environmental climate and considering the life-span of  
12 base load units. Even when CO<sub>2</sub> costs are assumed to be very low,  
13 combined cycle gas generation still emerges as more competitive than coal.

14 **Q. HOW DID RENEWABLE OR ALTERNATIVE ENERGY SOURCES**  
15 **FIGURE INTO THIS ANALYSIS?**

16 A. Alternative energy sources such as wind, solar, biomass and landfill  
17 methane may play a very useful role in supplementing base load generation  
18 resources on our system. I do not want to minimize the future role  
19 renewable resources may play in supplying South Carolina's future energy  
20 needs. But it was our conclusion that at this time, SCE&G could not  
21 prudently rely on them as a substitute for new base load generation to meet  
22 our customers' needs in the 2016-2019 time period.

1   **Q.   PLEASE EXPLAIN.**

2   **A.           Landfill methane resources are limited in South Carolina. Landfill**  
3       **methane units are capable of providing only a very small amount of power**  
4       **per landfill. And the number of suitable landfills in our area is limited. In**  
5       **addition, Santee Cooper is actively developing many of the resources that**  
6       **are available. Biomass resources, principally forest industry wastes, are**  
7       **available but not in quantities sufficient to meet a significant percent of**  
8       **SCE&G's generation needs.**

9               **Because of weather and atmospheric conditions, South Carolina and**  
10       **surrounding areas are not well suited either for wind or solar generation. In**  
11       **South Carolina, attractive wind resources exist chiefly off-shore. In our**  
12       **opinion, the technology to harness off-shore wind resources is still not fully**  
13       **mature. And the cost and permitting issues surrounding off-shore wind**  
14       **resources make them economically difficult to justify. In addition, wind**  
15       **and solar generation is not "dispatchable." i.e., the weather decides when**  
16       **and how much energy is produced by these resources, not the needs of our**  
17       **customers or the operators in our control room. As Dr. Lynch will testify,**  
18       **to replace the energy from VCSNS Units 2 & 3 using solar or wind**  
19       **resources would require either 96 square miles of solar panels or 2,284**  
20       **individual 3MW wind turbines installed off the South Carolina coast. As a**  
21       **single wind farm, the 2,284 individual wind turbines would cover 188**

1 square miles or the entire length of the South Carolina coast three wind  
2 turbines deep.

3 Such facilities would be prohibitively expensive and would replace  
4 only the energy represented by VCSNS Units 2 & 3 since wind and solar  
5 operate only about 20-35% of the time. Dispatchable back-up capacity  
6 would still need to be provided when weather or atmospheric conditions  
7 were not suitable for wind or solar generation.

8 **Q. WHAT ROLE DOES DEMAND SIDE MANAGEMENT PLAY IN**  
9 **THESE ANALYSES?**

10 **A.** As Dr. Lynch will testify, SCE&G has been very successful in  
11 managing its peak load through interruptible service riders, standby  
12 generator programs, and similar programs. These peak shifting or peak  
13 shaving programs are reducing our peak loads by as much as 4% which  
14 exceeds the industry average of 2-3%. The Fairfield Pumped Storage unit  
15 allows SCE&G to serve another 576 MW of peak demand for energy using  
16 off-peak generation. The resulting peak demand savings are already  
17 incorporated in the relevant demand forecasts on which the need for new  
18 base load generation is based. And for reasons Dr. Lynch will explain,  
19 peak shifting programs have reached a point of diminishing returns given  
20 the needs and load shape of our electric system.

21 In addition, as mentioned above, the analyses performed by Dr.  
22 Lynch's group already include substantial reductions in assumed future



1 demand from new lighting efficiency mandates and appliance efficiency  
2 mandates that are being imposed by the Federal Government. SCE&G's  
3 experience during the 1970s and 1980s was that the greatest energy  
4 efficiency savings from DSM programs at the time came from  
5 governmentally-mandated efficiency programs such as appliance efficiency  
6 standards and improvements in building codes.

7 Furthermore, in light of greater customer and societal interest in  
8 energy efficiency, SCE&G has recently expanded its energy efficiency  
9 focus, and as the Company's witness David Pickles will testify, is  
10 conducting a comprehensive review of potential programs and offerings.  
11 The Company plans to complete that review and bring the results to the  
12 Commission for implementation in mid-2009. As a company, we are  
13 committed to implementing those programs that provide a reasonable  
14 assurance of verifiable benefits to customers and the system. We believe  
15 that such programs will be identified through the current analysis and will  
16 be successfully implemented.

17 At present, we cannot be certain of the full impact on energy growth  
18 of the new lighting and appliance efficiency standards as supplemented by  
19 programs that emerge from the Company's energy efficiency evaluation.  
20 However, as Dr. Lynch will testify, the current generation resource plan  
21 contains ample room to accommodate the future efficiency savings from  
22 governmental or SCE&G programs within the range of reasonable

1 expectations of success. Energy efficiency is important for many reasons,  
2 and should be actively pursued. The resulting efficiency savings can be  
3 accommodated in our current resource plan but are not a reasonable or  
4 prudent substitute for building the base load generation SCE&G will  
5 require in the 2016-2019 time period.

6 **Q. IN THE END, WHY DID SCE&G PICK NUCLEAR GENERATION**  
7 **OVER COMBINED CYCLE GAS GENERATION?**

8 **A.** Dr. Lynch's group compared the long run costs to our customers of  
9 nuclear capacity, based on the construction costs established in the EPC  
10 Contract negotiations, with the cost of combined cycle gas generation under  
11 a number of sets of assumptions. Those assumptions concerned the future  
12 environmental cost of CO<sub>2</sub> emissions, future natural gas costs, future coal  
13 costs and future uranium costs. Nuclear capacity was the preferable  
14 alternative from a pure price standpoint in the reference case, which reflects  
15 the reasonable and conservative assumptions concerning future costs. The  
16 reference case shows nuclear is the preferred option from a cost standpoint  
17 even assuming relatively low charges for CO<sub>2</sub> emissions (only \$15 per ton  
18 in the reference case). Gas has a cost advantage over nuclear only if the  
19 studies assume no or a very low cost for CO<sub>2</sub> emissions over the planning  
20 horizon or very low gas prices. Neither of these conditions appears very  
21 likely over the life of a base load plant.

1   **Q.   HOW DID NUCLEAR GENERATION PERFORM IN VARIATIONS**  
2       **FROM THE REFERENCE CASE FOR EVALUATING FUTURE**  
3       **COSTS?**

4   A.       As Dr. Lynch will testify, nuclear generation proved to be preferable  
5       to combined cycle gas generation in most of the more probable variations  
6       of the reference case, *i.e.*, scenarios involving higher than anticipated gas  
7       prices, higher than anticipated carbon prices, and higher than anticipated  
8       coal prices. In fact, nuclear generation proved to be the most beneficial  
9       option in precisely those scenarios where the costs of operating SCE&G's  
10      other generating units would be highest and the availability of lower cost  
11      nuclear power would be of most benefit to customers. Conversely, in those  
12      analyses where nuclear generation was a higher cost alternative, the costs of  
13      operating existing coal and gas plants would be lower than anticipated and  
14      these lower costs would serve to hold overall generation costs down.

15   **Q.   WHAT DO THESE RESULTS MEAN ABOUT RISK DIVERSITY**  
16       **FOR SCE&G'S GENERATION SYSTEM?**

17   A.       Building nuclear capacity diversifies SCE&G's exposure to  
18       increasingly volatile and globalized fossil fuel markets as well as risks  
19       related to the future environmental costs associated with CO<sub>2</sub> emissions.  
20       The price and environmental risks related to fossil fuels are among the most  
21       serious risks that SCE&G and its electric customers face. Adding more gas  
22       or coal capacity to meet base load needs in the 2016-2019 period would

1 increase SCE&G's exposure to those risks. As Dr. Lynch's testimony  
2 indicates, if SCE&G were to meet its 2016-2019 capacity needs with  
3 natural gas, its generation mix would be 79% fossil fuel based in 2020.

4 On the other hand, by building new nuclear generation, SCE&G will  
5 reduce exposure to those risks. The Company will pay capital costs which,  
6 although significant, are largely defined today in the EPC Contract, and  
7 will be fully quantified when construction is complete.

8 **Q. HOW SIGNIFICANT A RISK IS GAS AND COAL PRICE**  
9 **VOLATILITY?**

10 **A.** With specific reference to natural gas generation, volatility in natural  
11 gas markets has grown dramatically in recent years. The natural gas market  
12 is becoming more globalized as the United States imports more Liquefied  
13 Natural Gas ("LNG") to meet demand for natural gas. Over time, this trend  
14 may make global LNG markets more and more susceptible to price  
15 increases due to global energy demand and global competition for energy  
16 resources.

17 As Dr. Lynch will testify, the volumes of natural gas that are needed  
18 to replace the energy that would be generated by two nuclear units is nearly  
19 ten times the volume of gas that SCE&G currently supplies to its residential  
20 gas customers. Considering the volumes of natural gas required to generate  
21 electricity, at this time, we consider it risky and inadvisable to rely on this  
22 fuel to meet base load generation requirements where other reasonable

1 alternatives exist. As to coal prices, volatility in those markets has grown  
2 dramatically in recent months, as global competition for coal has caused the  
3 United States' net coal exports to increase dramatically. In July of 2008,  
4 spot prices for coal which rarely exceeded \$50 per ton three years ago have  
5 exceeded \$150 per ton. These developments seem to signal the  
6 globalization of U.S. coal markets, with the price volatility that seems to go  
7 along with such a change.

8 **Q. WHAT ARE THE ENVIRONMENTAL ISSUES RELATED TO**  
9 **COAL AND GAS GENERATION?**

10 A. Compared to combined cycle gas units, the two nuclear units  
11 proposed here will avoid approximately 510 million tons of CO<sub>2</sub> emissions  
12 over their 60 year lives. Compared to coal units, they will avoid  
13 approximately 1 billion tons of CO<sub>2</sub> emissions. In fact, by adding this base  
14 load nuclear capacity to the system, SCE&G is forecasted to reduce its  
15 annual carbon emissions by 21%. The savings in SO<sub>x</sub> and NO<sub>x</sub> emissions,  
16 while smaller in volume, are nonetheless substantial.

17 **Q. WHAT THEN ARE THE RISKS FROM CHOOSING NUCLEAR**  
18 **GENERATION TO MEET SCE&G'S 2016-2019 BASE LOAD**  
19 **REQUIREMENTS?**

20 A. The risks from choosing nuclear generation to meet the 2016-2019  
21 requirements are outlined in Exhibit J to the Application.

- 1       • Mr. Byrne will discuss technical and safety issues at greater length. As  
2       he indicates, given the nuclear industry's record of safe operations, the  
3       technological and engineering advances reflected in current nuclear  
4       plant designs, and the options for dry fuel storage of wastes, SCE&G  
5       does not see safety, technical issues, or waste disposal issues as being  
6       unmanageable risks related to nuclear construction at this time.
- 7       • Mr. Addison will discuss the financial risks related to the nuclear  
8       construction project. As he indicates, while the investment community  
9       is very interested in the outcome of these proceedings, we believe that if  
10      the Commission supports SCE&G's request for a Base Load Review  
11      Order along the lines of the Application, financial markets will provide  
12      SCE&G with access to the capital required to build these plants on  
13      reasonable terms. Important to the investment community's assessment  
14      of the risks of this venture will be the Commission's response to the  
15      contingencies included in the Combined Application in this matter,  
16      which relate to both schedule and price. We believe that with an  
17      appropriate order in this proceeding, the financial risk from construction  
18      of VCSNS Units 2 & 3 is manageable.
- 19      • Fuel risks for nuclear generation are modest, not because prices for  
20      uranium and fuel components may not rise in the future, but because  
21      nuclear fuel costs are so low as a percentage of total nuclear power  
22      costs. Fuel costs typically represent less than 10% of the total cost per

1 kWh of nuclear power. Given these percentages, it takes a dramatic rise  
 2 in nuclear fuel costs to create a modest rise in total nuclear generation  
 3 costs. That said, SCE&G is not aware of any significant constraint on  
 4 either uranium supplies or the availability of fabrication capacity for  
 5 fuel assemblies that would indicate the possibility of major price  
 6 increases for fuel.

- 7 • As Mr. Summer, **Mr. Connor** and **Mr. Whorton** will testify, the  
 8 **environmental risks and seismic risks associated with VCSNS Units 2 &**  
 9 **3 have been thoroughly studied and assessed and are not significant.**  
 10 **SCE&G's 26 year history of successful nuclear operations at the site**  
 11 **gives practical support to this conclusion.**
- 12 • Given the degree of regulatory oversight already given to the ~~API0000~~  
 13 design, we believe that NRC licensing risk is manageable, and expect a  
 14 reasonable schedule to be issued for **SCE&G's** licensing review.
- 15 • Construction delays and regulatory or legal changes could jeopardize  
 16 **SCE&G's receipt of Federal Production Tax Credits related to the units.**  
 17 In addition, SCE&G and Santee Cooper have planned to receive a full  
 18 allocation of credits. However, if final tax regulations and  
 19 determinations preclude Santee Cooper's and public power entities'  
 20 eligibility for the credits, SCE&G and Santee Cooper have agreed to  
 21 share the value of the credits they receive subject to PSC approval. If

1 Santee Cooper is not allocated credits, SCE&G could receive less than  
2 its full anticipated amount of credits.

3 **Q. WHAT THEN ARE THE PRINCIPAL RISKS FROM THE VCSNS**  
4 **UNITS 2 & 3 CONSTRUCTION PROJECT?**

5 **A.** In our view, the principal risks of nuclear generation are risks related  
6 to the construction of the units themselves, specifically the price and  
7 schedule risks of the construction project.

8 **Q. HOW HAS SCE&G ADDRESSED THESE RISKS?**

9 **A.** SCE&G has mitigated these price and schedule risks by selecting a  
10 nuclear technology that is well advanced in the NRC licensing process. We  
11 are siting VCSNS Units 2 & 3 at a location where the Company has  
12 successfully conducted nuclear operations for decades and which is well  
13 studied and understood environmentally and geologically and where  
14 existing transmissions is located. We have chosen a competent nuclear  
15 system supplier and construction contractor to build the units. In the EPC  
16 Contract with Westinghouse/Stone & Webster, we have negotiated the  
17 greatest amount of price certainty we believe to be reasonably possible  
18 consistent with our interest in a low price. And we have built incentives  
19 and penalties into that contract for the contractors to meet their cost and  
20 schedule commitments.

21

22



1   **Q:   PLEASE ELABORATE.**

2   A.           Throughout the EPC Contract negotiations, which Mr. Byrne will  
3               explain in more detail, SCE&G pressed Westinghouse/Stone & Webster for  
4               as much price and schedule certainty as could be reasonably obtained  
5               without unduly adding to the expense of the units. The ~~API0000~~ units  
6               clearly are best suited for SCE&G's needs and the needs of the Jenkinsville  
7               site, in terms of size and technology.

8               Those advantages aside, the SCE&G leadership team was not  
9               willing to proceed with nuclear licensing and construction without a  
10              reasonable target price from Westinghouse/Stone & Webster and  
11              reasonable and contractually binding assurances as to price and schedule.  
12              Obtaining those assurances was the principal reason the negotiations with  
13              Westinghouse/Stone & Webster lasted over two years.

14   **Q:   WHAT DID SCE&G DO TO OBTAIN REASONABLE**  
15   **ASSURANCES OF PRICE AND SCHEDULE FROM**  
16   **WESTINGHOUSE/STONE & WEBSTER?**

17   A.           SCE&G pressed for price assurances at all stages of the negotiations  
18               and took its concerns to the highest levels of Westinghouse, its parent  
19               company Toshiba Corp., Stone & Webster, and its parent company the  
20               Shaw Group, at the appropriate times. As part of the open book pricing  
21               process, our engineers and construction experts carefully reviewed

1 Westinghouse/Stone & Webster's pricing information, which was  
2 contained in the AP1000 "price book" and supporting documentation.

3 This pricing information was considered very confidential by  
4 Westinghouse and was provided to us on the condition that the price books  
5 be returned at the end of the negotiations and that the supporting data be  
6 reviewed on site at Westinghouse facilities only. This set of documents  
7 detailed each element of cost underlying Westinghouse/Stone & Webster's  
8 cost estimates for the plants, including its estimates of equipment, labor and  
9 materials necessary to each part of the plant and construction effort, as well  
10 as the prices it had obtained from other suppliers for major items of  
11 equipment.

12 The price information that Westinghouse/Stone & Webster provided  
13 was helpful in verifying that SCE&G had negotiated as favorable a price as  
14 SCE&G's was likely to achieve. But let me emphasize that  
15 Westinghouse/Stone & Webster cost information was not the basis on  
16 which the AP1000 technology was ultimately selected. In the end, the  
17 decision to construct AP1000 units was not based on Westinghouse/Stone  
18 & Webster's cost information, but on the price and price certainty  
19 Westinghouse/Stone & Webster offered and how that price conformed to  
20 SCE&G's needs and compared to the alternatives available from other  
21 vendors and other technologies.

1   **Q.    DID SCE&G EVER BREAK OFF NEGOTIATIONS WITH THE**  
2   **CONSORTIUM?**

3   **A.**Yes. As Mr. Byrne will testify, SCE&G broke off negotiations with  
4   Westinghouse/Stone & Webster in late 2006 to reassess its initial  
5   technology selection and to refresh its information concerning the pricing  
6   and price certainty available from other suppliers. We went back to all the  
7   original potential vendors and asked them to update their proposals. The  
8   evaluation of updated responses demonstrated that the ~~API0000~~ was still the  
9   preferred unit and that Westinghouse/Stone & Webster's pricing, price  
10   certainty commitments and price terms were in line with the market and the  
11   options available from other vendors.

12   **Q.    DO YOU BELIEVE THAT SCE&G RECEIVED APPROPRIATE**  
13   **PRICE AND SCHEDULE COMMITMENTS FROM**  
14   **WESTINGHOUSE/STONE & WEBSTER?**

15   **A.**Yes, I believe that the EPC Contract with Westinghouse/Stone &  
16   Webster does contain appropriate price and schedule guarantees and a  
17   reasonable overall cost for a project of this scope. Under the EPC Contract,  
18   more than half the contract price falls either in the category of fixed price  
19   items or a firm price items which have either fixed or indexed escalators.  
20   Fixed price and fixed escalation items include the major equipment  
21   components of the plant. Craft wages, construction materials and  
22   consumables, and non-nuclear buildings are the principal items that are not

1 fixed or firm priced, and an additional percentage of these costs will be  
2 offered to SCE&G at a fixed price in the coming months.

3 As to the non-fixed, non-firm elements of the contract, the contract  
4 contains a target price, and Westinghouse/Stone & Webster is at risk for a  
5 substantial percentage of the agreed-to profit or costs where they have  
6 exceeded that target price. By the same token, if Westinghouse/Stone &  
7 Webster completes the project below the target price, they are allowed to  
8 keep the majority of the savings. We believe that this structure gives the  
9 consortium a significant incentive to bring the project in below budget.

10 **Q. HOW WILL SCE&G MANAGE PRICE AND SCHEDULE RISK**  
11 **GOING FORWARD?**

12 **A.** As Mr. Byrne will testify, SCE&G is assembling a team of  
13 engineering and construction personnel, with accounting and administrative  
14 support, to monitor all aspects of the construction process and to ensure that  
15 the EPC contract is administered as intended. The business processes and  
16 structures for this oversight group are being formalized at this time. In all,  
17 we estimate more than 50 people will be assigned to this task. At the center  
18 of this structure will be a dedicated group of SCE&G personnel that will  
19 monitor each aspect of the construction process on a day-to-day basis and  
20 will report progress, issues and variances to an executive steering  
21 committee that includes me as SCE&G's president, and a senior executive  
22 from Santee Cooper and to the SCANA board of directors. This project

1 will be monitored on a sustained and continuous basis by all levels of the  
2 reporting chain as well as dedicated personnel from the Office of  
3 Regulatory Staff and multiple dedicated NRC inspectors.  
4

5 **SCE&G'S PHILOSOPHY OF UTILITY OPERATIONS**

6 **Q. MR. MARSH, HOW DOES THE DECISION TO PROCEED WITH**  
7 **CONSTRUCTION OF VCSNS UNITS 2 & 3 FIT WITH SCE&G'S**  
8 **PHILOSOPHY OF UTILITY OPERATIONS AS PRESENTED TO**  
9 **THIS COMMISSION IN PAST PROCEEDINGS?**

10 **A.** In past proceedings, SCE&G has demonstrated to the Commission  
11 that it is guided by a philosophy of utility operations that includes the  
12 following points:

- 13 • **Vertically Integrated Utility Operations** -- SCE&G believes that the  
14 Company can best provide reliable, reasonably-priced electric service to  
15 its customers if it owns, maintains and operates the base load units  
16 which serve them. For that reason, SCE&G has consistently sought to  
17 remain a vertically integrated electric utility that owns and maintains its  
18 own generation resources. The Company relies on the market and on  
19 third parties for short-term and peaking capacity, and for economy and  
20 supplemental energy. Otherwise it seeks to own the key assets on which  
21 it and its customers depend for reliable and reasonably priced electric  
22 service.

- 1       • **Commitment to Build What Is Needed**-- With the commitment to

2       owning its own generation resources goes the obligation to build and

3       finance the plants that the system needs when the system needs them.

4       This means accepting the risks of building plants even in unfavorable

5       economic and market conditions. For example, SCE&G built the Cope

6       Plant at a time (1992-1996) when no other investor-owned utilities were

7       willing to build base load generation for fear that deregulation would

8       result in “stranded investment.” But SCE&G’s system needed

9       additional base load generation and the Company took responsibility to

10      build it. In fact, to my knowledge, Cope was the only investor-owned

11      base load plant completed in the mid-1990s and has been a key resource

12      for serving customers since it was completed. It has been recognized as

13      being among the most reliable and efficient plants in the United States.

14      At today’s prices, replacing Cope would cost several times what

15      SCE&G paid for it.
- 16      • **Reducing Financial Costs and Risks through Regulatory**

17      **Transparency** -- From a financial perspective, SCE&G was able to

18      finance the Cope plant successfully in the face of skeptical financial

19      markets because of the early prudency review that it received from this

20      Commission. The Company came to the Commission in 1992, when

21      construction was just beginning, and asked for a full prudency review.

22      The Company sought and the Commission approved staged increases

1 during the construction period to allow the Company to recover its cost  
2 of capital associated with construction spending to reduce ultimate costs  
3 to customers. The resulting Cope order was a model for the early  
4 prudence reviews and interim rate adjustments written into the Base  
5 Load Review Act. In many ways, this proceeding is a continuation of  
6 the approach that the Company proposed and the Commission adopted  
7 in the Cope proceedings.

- 8 • **Sticking to What We Know** -- SCE&G has been guided in recent  
9 decades by the principle of sticking to what it knows and does well, an  
10 approach one investment analyst labeled “plain vanilla” utility  
11 operations. In proposing to build VCSNS Units 2 & 3, the Company is  
12 proposing to build its new nuclear units on a site where it has operated a  
13 nuclear plant successfully for more than 26 years; the units are updated  
14 versions of the unit currently operating on that site; the principal  
15 suppliers will be the same company that supplied VCSNS Unit 1; and  
16 SCE&G’s partner in this venture, Santee Cooper, is the same entity with  
17 which it has successfully partnered in operating VCSNS Unit 1 for the  
18 last 26 years.

19 In important respects, SCE&G’s decision to build VCSNS Units 2 &  
20 3 is a continuation of relationships and activities that SCE&G has  
21 successfully managed for decades.  
22

**CONCLUSION**

**Q. IN SUMMARY, WHY IS SCE&G PROPOSING TO PROCEED WITH CONSTRUCTION OF TWO AP1000 NUCLEAR UNITS?**

A. As a public utility, SCE&G has an obligation to make reliable, safe and reasonably priced power available to both new and existing customers as our service territory develops. To meet that obligation effectively, SCE&G must add new base load generation in the 2016-2019 time period. For all the reasons set forth above, the logical, prudent and responsible means to meet that need is to proceed with licensing and construction of two Westinghouse AP1000 nuclear units in partnership with Santee Cooper.

**Q. WHAT ARE YOU ASKING THIS COMMISSION TO DO?**

A. SCE&G respectfully requests that the Commission issue a combined order under the Base Load Review Act, and the Siting Act:

1. Approving the Combined Application in this matter;
2. Granting a certificate of public convenience and necessity authorizing SCE&G to proceed with construction of VCSNS Units 2 & 3;
3. Determining, as provided in the Base Load Review Act, that VCSNS Units 2 & 3 will be conclusively deemed to be prudently constructed and used and useful for utility purposes (a) so long as they are constructed in accordance with the price estimates, with inflation factors and contingencies, that are contained in Exhibit F and Paragraphs 10,



1 13-16 of the Combined Application; and (b) so long as they are  
2 completed in accordance with the scheduled completion dates with  
3 contingencies, specified in Paragraphs 8 and 9 of the Combined  
4 Application;

5 4. Authorizing the Company to put into effect the revised rates as set forth  
6 in Exhibit N of the Combined Application for service rendered on or  
7 after May 1, 2009; and

8 5. Authorizing other relief as required.

9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 **A. Yes, it does.**

11

1 BY MR. BURGESS:

2 Q Mr. Marsh, have you prepared a summary of your direct  
3 testimony?

4 A Yes, I have.

5 Q Would you please deliver it at this time?

6 A I will. Good afternoon, Madam Chair and members of the  
7 Commission. On May 30, 2008, SCE&G submitted an  
8 application to the Commission for a certificate of  
9 environmental compatibility and public convenience and  
10 necessity, and for a Base Load Review order for the  
11 construction and operation of a nuclear facility at  
12 Jenkinsville, South Carolina. That petition concerns  
13 the company's plan to construct two 1,117-megawatt  
14 AP1000 nuclear generating units at the site of the  
15 present V.C. Summer Nuclear Station outside of  
16 Jenkinsville, South Carolina.

17 These new units will be built by a consortium  
18 formed by Westinghouse Electric Corporation and Stone &  
19 Webster, LLC. This will take place under an  
20 engineering, procurement, and construction agreement,  
21 which we refer to as the EPC contract. It was signed on  
22 May 23, 2008.

23 Other witnesses will testify in detail concerning  
24 the AP1000 units, the site where they will be  
25 constructed, and the EPC contract under which they will

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1 be built. My direct testimony will focus on, one, how  
2 has SCE&G assessed the needs of its system for new base-  
3 load capacity in the 2016-2019 timeframe; two, how the  
4 company evaluated the options available to meet those  
5 needs; and three, why the decision to partner with the  
6 South Carolina Public Service Authority, or Santee  
7 Cooper, to construct two new AP1000 units is a sound  
8 one. I will show how the decisions to construct these  
9 new units supports the needs and interests of the people  
10 SCE&G serves, and how it is consistent with SCE&G's  
11 long-standing commitment to function as an integrated  
12 electric utility that is willing to bear the risk of  
13 building base-load generation to serve its customers.  
14 My testimony also discusses how SCE&G plans to meet the  
15 challenges involved in constructing and financing these  
16 units. I also introduce the testimony of the other  
17 company witnesses in this case.

18 Let me begin by providing the Commission with an  
19 overview of the SCE&G system and its needs. SCE&G  
20 operates an integrated electric utility system that  
21 serves over 640,000 customers in 24 counties in central  
22 and southern South Carolina. SCE&G owns or operates one  
23 nuclear facility, ten coal-fired fossil-fuel units, one  
24 cogeneration facility, eight combined-cycle gas  
25 turbine/steam generator units, 18 peaking turbines, five

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1 hydroelectric generating plants, and one pumped storage  
2 facility..

3 In 2007, SCE&G generated 26,000 -- excuse me --  
4 26,242,850 megawatt-hours of energy. Of this energy,  
5 the fossil steam plants generated 65 percent, the  
6 nuclear plant generated 18 percent, the combined-cycle  
7 natural-gas units generated 12 percent, and the gas  
8 peaking turbines and hydro facilities generated 5  
9 percent. The total net generating capability of all  
10 SCE&G generating facilities is 5,687 megawatts. When  
11 our Southeastern Power Authority contracts and long-term  
12 purchase from Santee Cooper are considered, our total  
13 supply capacity is 5,745 megawatts.

14 In 2007, SCE&G's peak demand was 5,248 megawatts.  
15 When compared to the company's net generating  
16 capability, this resulted in an on-system reserve margin  
17 for 2007 of approximately 9 percent. This on-system  
18 reserve margin represents SCE&G's long-term resources  
19 for meeting customer needs. It was supplemented in 2007  
20 by short-term capacity purchases made to support system  
21 reliability during the summer peak period.

22 For some years, SCE&G has recognized the need for  
23 additional generation sources -- resources on its system  
24 in the 2016-2019 time period. The company determined  
25 that the specific type of generation needed was base-

1 load generation, which is capacity designed and intended  
2 to run for an extended number of hours per year, and at  
3 high capacity factors. Base-load generation capacity is  
4 the backbone of a reliable and efficient generating  
5 system. Any such capacity entails higher initial  
6 capital costs than intermediate and peaking units, but  
7 it also involves lower lifecycle costs through lower  
8 fuel costs.

9 The need for additional base-load generation on  
10 SCE&G's system is a result of growth and development in  
11 the company's service territory. The company serves a  
12 number of the most rapidly growing areas of South  
13 Carolina, particularly the areas near Charleston,  
14 Beaufort, Northeast Columbia, and Lexington. While  
15 energy used by some traditional and industrial energy  
16 users, like textile manufacturers, has declined, our  
17 State's economy has continued to grow in other areas of  
18 industry and manufacturing. In addition, we expect  
19 residential, commercial, and retirement growth in South  
20 Carolina to continue over the long term. The last base-  
21 load generation plant that SCE&G added to its system was  
22 Cope Station located in Orangeburg County. Cope went  
23 into service in 1996. Over the intervening 12 years,  
24 SCE&G has added approximately 149,000 new customers to  
25 its system, which is a 31 percent increase. During that

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1 period, net of retirements, SCE&G installed 2,413 miles  
2 of new overhead line, 3,014 miles of new underground  
3 line, 86,065 new distribution transformers, and 139,988  
4 new service poles on its system.

5 Since 1996, energy use on SCE&G's system has grown  
6 by 5,880 gigawatt-hours, or 31 percent. This growth is  
7 forecasted to continue. By 2016, energy use on SCE&G's  
8 system is forecasted to have grown by an additional  
9 2,499 gigawatt-hours, for a total growth of 44 percent  
10 since Cope entered service. By 2019, energy use is  
11 forecast to have grown by an additional 1,671 gigawatt-  
12 hours for a total growth of 53 percent since Cope  
13 entered service.

14 In the intervening 12 years since Cope went into  
15 service, SCE&G has added gas-fired peaking and  
16 intermediate generation to meet increased demand. As a  
17 result, the percentage of base-load capacity on SCE&G's  
18 system declined from over 75 percent in 1996 to 56  
19 percent in 2007. We rely on this shrinking percentage  
20 of base-load capacity intensely. During 2007, the 56  
21 percent of our generation capacity represented by base-  
22 load plants generated over 80 percent of the energy  
23 SCE&G produced. Unless SCE&G builds new base-load  
24 capacity by 2020, the percentage of base-load capacity  
25 on our system will drop to 45 percent. These

1 projections are based on a forward-looking retail demand  
2 growth of 1.7 percent per year, which I believe to be a  
3 conservative estimate.

4 Considering the recent growth in demand in our  
5 service territory and the 12-year period since base-load  
6 generation was last added to our system, it is logical  
7 that SCE&G would be considering adding 614 megawatts of  
8 base-load capacity in 2016 and an additional 614  
9 megawatts in 2019. As the electric service provider to  
10 approximately one-fourth of the customers in the State,  
11 SCE&G is responsible for ensuring that sufficient  
12 electric power is available on its system to serve both  
13 new and existing customers efficiently, as its growth  
14 proceeds. That is why we are proposing to construct the  
15 new nuclear units.

16 In 2005, SCE&G began the process of exploring the  
17 cost and feasibility of new nuclear capacity. Nuclear  
18 capacity was attractive due to the increasing costs in  
19 environmentally compliant coal units, the likelihood of  
20 CO<sub>2</sub> regulation, and the increasing volatility of natural  
21 gas prices. As this analysis proceeded, SCE&G compared  
22 information concerning the cost and feasibility of new  
23 nuclear generation with information already available to  
24 it concerning the cost and the risk of coal and gas  
25 alternatives.

1 As to other generation alternatives, a new plant  
2 was not competitive with combined-cycle gas generation,  
3 primarily due to the cost of constructing a fully  
4 environmentally compliant coal plant, as well as the  
5 potential costs associated with CO<sub>2</sub> emissions. As to  
6 combined-cycle gas generation, SCE&G's exposure to  
7 increasingly volatile and globalized fossil-fuel  
8 markets, as well as risks related to the future  
9 environmental costs associated with CO<sub>2</sub> emissions, were  
10 key concerns. Fossil fuel prices and environmental  
11 costs associated with emissions from these plants are  
12 among the most serious risks SCE&G and its electric  
13 customers face. Adding more gas or coal capacity to  
14 meet base-load needs in the 2016-2019 period would  
15 increase SCE&G's exposure to those risks.

16 Alternative energy sources, such as wind, solar,  
17 biomass, and landfill methane, may play a useful future  
18 role in supplementing base-load generation resources on  
19 our system. I do not want to minimize the role  
20 renewable resources may play in supplying South  
21 Carolina's future energy needs. It is our conclusion  
22 that, at this time, SCE&G cannot prudently rely on them  
23 as a substitute for new base-load generation to meet our  
24 customers' needs in the 2016-2019 time period. Because  
25 of weather and atmospheric conditions, South Carolina

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1 and surrounding areas are not well suited for either  
2 wind or solar generation. South Carolina's attractive  
3 wind resources exist chiefly offshore. In our opinion,  
4 the technology to harness offshore wind resources is  
5 still not fully mature. And the costs in permitting  
6 issues surrounding offshore wind resources makes them  
7 economically difficult to justify. In addition, wind  
8 and solar generation is not dispatchable. The weather  
9 decides when and how much energy is produced by these  
10 resources, not the needs of our customers nor the  
11 operations in our control. It is also important, in  
12 considering resources like wind and solar, to have a  
13 sense of the scale of energy needs South Carolina faces  
14 and the capability of those resources to meet such  
15 needs.

16 To replace the energy from proposed new Units 2 and  
17 3, using solar or wind resources, would require either  
18 96 square miles of solar panels or 2,284 individual  
19 three-megawatt wind turbines installed off the South  
20 Carolina coast. As a single wind farm, the 2,284  
21 individual wind turbines would cover 188 square miles,  
22 or the entire length of the South Carolina coast, three  
23 wind turbines deep.

24 The decision to pursue new base-load capacity in no  
25 way precludes significant contributions from demand-side

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1 management programs. As Dr. Lynch will testify, SCE&G  
2 includes in its forecast flexibility to accommodate  
3 significant contributions to its supply mix from this  
4 source.

5 Dr. Lynch's group compared the long-run costs to  
6 our customers of nuclear capacity based on the  
7 construction costs established in the EPC contract  
8 negotiations with the cost of combined-cycle gas  
9 generation under a number of assumptions. Those  
10 assumptions concerned the future environmental costs of  
11 CO<sub>2</sub> emissions, future natural gas costs, future coal  
12 costs, and future uranium costs. Nuclear capacity was  
13 the preferable alternative from a pure price standpoint  
14 in the reference case, which reflects a set of  
15 reasonable and conservative assumptions concerning  
16 future costs. Nuclear generation was also preferable in  
17 many of the alternative case studies that were computed  
18 to determine the sensitivity of the reference case to  
19 changes in gas, coal, uranium, or CO<sub>2</sub> prices.

20 As Mr. Byrne will describe in more detail, in the  
21 2005 timeframe, SCE&G's new nuclear deployment team  
22 solicited detailed information from the leading  
23 providers of nuclear generation units about the cost,  
24 characteristics, and regulatory status of their designs.  
25 The available units were ranked based on both technical,

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1 regulatory, and financial criteria. An initial  
2 selection of the Westinghouse AP1000 unit was, made  
3 based on a number of factors which included its size,  
4 its passive design, and its operational similarity to  
5 the existing Summer Unit 1. Also important to that  
6 analysis is the fact that the NRC had already issued a  
7 nuclear design license for the unit, and the fact that  
8 there were opportunities to collaborate with other  
9 utilities in the licensing and engineering process.

10 In May of 2008, SCE&G decided to proceed with the  
11 construction of two new AP1000 nuclear units in  
12 partnership with Santee Cooper. This decision was made  
13 after careful analysis of the data and analysis that our  
14 joint leadership team, including Santee Cooper, believe  
15 to be relevant, and after intensive negotiations with  
16 the Westinghouse/Stone & Webster consortium to ensure a  
17 reasonable price and reasonable terms for the  
18 construction project.

19 An important part of the company's decision to  
20 proceed with construction of the new units has been a  
21 careful and thorough evaluation of the risk of nuclear  
22 generation, compared to the alternatives. Given the  
23 nuclear industry's record of safe operations, the  
24 technological and engineering advances reflected in the  
25 current nuclear plant designs, and the options for dry

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1 fuel storage as spent fuel assemblies, SCE&G does not  
2 see safety, technical issues, or disposal issues as  
3 being unmanageable risks related to nuclear construction  
4 at this time.

5 As to the financial risk related to the nuclear  
6 construction project, we believe that if the Commission  
7 supports SCE&G's request for a Base Load Review order  
8 along the lines of the application, financial markets  
9 will provide SCE&G with access to the capital required  
10 to build these plants on reasonable terms. The  
11 Commission's response to the schedule and price  
12 contingencies included in the combined application will  
13 be very important to the investment community's  
14 assessment of the risk of this venture. We believe  
15 that, with an appropriate order in this proceeding,  
16 including appropriate contingencies, the financial risk  
17 from the construction of new Units 2 and 3 is  
18 manageable.

19 As to licensing risk, the Nuclear Regulatory  
20 Commission has given certified design approval to the  
21 AP1000, finding that it falls well within its acceptable  
22 safety and risk criteria.

23 Probabilistic risk assessments of the AP1000 show a  
24 core damage probability of one or less, every 2.5  
25 million years of operation, far exceeding the once-in-

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1 10,000-years required by the NRC. As the NRC requires,  
2 we will be constructing a standardized AP1000 design  
3 with minimal site-specific modifications. Given the  
4 degree of regulatory oversight already given to the  
5 AP1000 design, we believe that NRC licensing risk is  
6 manageable and expect a reasonable schedule to be issued  
7 for SCE&G's licensing review.

8 As to risk mitigation, building nuclear capacity  
9 diversifies SCE&G's exposure to increasingly volatile  
10 and globalized fossil-fuel markets, as well as risk  
11 related to future environmental costs associated with  
12 CO2 emissions. The price and environmental risks  
13 related to fossil fuels are among the most serious risks  
14 that SCE&G and its electric customers face. Adding more  
15 gas or coal capacity would increase SCE&G's exposure to  
16 those risks. As Dr. Lynch's testimony indicates, if  
17 SCE&G were to meet its capacity needs with natural gas,  
18 its generation mix would be 79 percent fossil-fuel-based  
19 in 2020. On the other hand, by building new nuclear  
20 generation, SCE&G will reduce exposure to those risks.  
21 The company will pay capital costs, which, although  
22 significant, are largely defined today in the EPC  
23 contract, and will be fully quantified when construction  
24 is complete.

25 In our analysis, the principal risks of nuclear

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1 generation are risks related to the construction of the  
2 units themselves, specifically, the price and schedule  
3 risks of the construction project. SCE&G has mitigated  
4 these price and schedule risks by selecting a nuclear  
5 technology that is well advanced in the NRC licensing  
6 process. In the EPC contract with Westinghouse/Stone &  
7 Webster, we have negotiated the greatest amount of price  
8 certainty we believe to be reasonably possible,  
9 consistent with our interest in a low price. We are  
10 putting in place an extensive and experienced group of  
11 internal construction management and oversight personnel  
12 who will monitor all aspects of the construction and  
13 licensing process, as it moves forward.

14 Another important part of SCE&G's approach to  
15 building these units is our partnership with Santee  
16 Cooper. Due to economies of scale and construction  
17 efficiencies, two units built in sequence are cheaper  
18 per kilowatt capacity than is a single unit. In  
19 addition, by separating the commercial operation dates  
20 of the two units by 33 months, SCE&G is better able to  
21 match the new generation capacity to the growth in load  
22 on its system. Because two full units would be more  
23 than SCE&G would need itself, the company sought a joint  
24 venture partner to share the capacity and the cost. We  
25 believe Santee Cooper is an ideal partner to take a 45

1       percent share in the project. Santee Cooper's  
2       involvement makes this a uniquely South-Carolina-focused  
3       project. In total, approximately 60 percent of the  
4       electric customers in South Carolina are served either  
5       directly by SCE&G or Santee Cooper, or are served by  
6       suppliers that receive wholesale service from us. Our  
7       26-year history of successfully operating V.C. Summer  
8       Unit 1 as joint owners and Santee Cooper's solid credit  
9       rating and superior access to capital are major positive  
10      features of our venture.

11       In past proceedings, SCE&G has demonstrated to the  
12      Commission that it is guided by a philosophy of utility  
13      operations under which SCE&G has consistently sought to  
14      remain a vertically integrated electric utility that  
15      works in close coordination with this Commission and the  
16      Office of Regulatory Staff to build and finance the  
17      plants that the system needs, when the system needs  
18      them. In many ways, this proceeding is a continuation  
19      of the approach that the company proposed and the  
20      Commission adopted in the Cope proceedings in the mid-  
21      1990s. At that time, the Commission came -- the company  
22      came to the Commission early in the construction process  
23      for a full prudency review of the new plant and made  
24      filings for multiple rate revisions as construction  
25      proceeded.

1 In addition, in proposing to build the new units,  
2 the company is proposing to build its new nuclear units  
3 on a site where it has operated a nuclear plant  
4 successfully for more than 26 years. The units are  
5 updated versions of the Westinghouse unit currently  
6 operating on that site. The principal supplier will be  
7 the same company that supplied Unit 1, and SCE&G's  
8 partner in this venture is the same entity with which it  
9 has successfully partnered in operating Unit 1 for the  
10 last 26 years. In important respects, SCE&G's decision  
11 to build the new units is a continuation of  
12 relationships and activities that SCE&G has successfully  
13 managed for decades.

14 Also testifying in this proceeding on behalf of  
15 SCE&G will be a number of other witnesses. Those other  
16 SCE&G witnesses are Stephen Byrne, who serves as senior  
17 vice president for generation and chief nuclear officer  
18 of SCE&G, and will discuss the selection of nuclear  
19 units as the preferred technology, the choice of  
20 Westinghouse/Stone & Webster as the contractors to build  
21 those units, the EPC contract, and issues related to  
22 fuel storage and disposal; Jimmy Addison is the senior  
23 vice president and chief financial officer of SCANA and  
24 SCE&G, and will present an overview of the financial  
25 aspects of the project; Elizabeth Best is the director

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1 of financial planning and investor relations at SCANA  
2 services, Inc., and will sponsor the financial and cost  
3 projections related to the V.C. Summer Units 2 and 3  
4 construction program, including the inflation indices  
5 and contingency amounts included in those projections;  
6 Dr. Joe Lynch is manager of resource planning, SCANA  
7 services, and will discuss the studies that establish  
8 the need for additional base-load generation in the  
9 2016-2019 time period, and that establish the relative  
10 economics of nuclear and non-nuclear generation  
11 alternatives; David Pickles is vice president of ICF  
12 International, and will testify concerning energy  
13 efficiency and load management issues; Stephen Summer is  
14 a senior environmental specialist at SCANA Services,  
15 Inc., and will provide an overview of environmental  
16 permits required for V.C. Summer Units 2 and 3, and the  
17 seismic environmental studies conducted at the site;  
18 Steven Connor, of Tetra Tech NUS, Inc., is project  
19 manager and will sponsor the environmental report  
20 establishing the environmental suitability of the  
21 Jenkinsville site for new nuclear generation units, and  
22 will present a synopsis of the extensive site  
23 characterization studies and other site and  
24 environmental information filed with the NRC in the  
25 combined operating license application; Robert Whorton

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1 is a senior engineer at SCE&G, and will testify  
2 concerning seismic, geotechnical, and geological  
3 conditions at the Jenkinsville site; Hubert C. Young is  
4 the manager of transmission planning for SCE&G, and will  
5 present the transmission interconnection studies that  
6 have determined the transmission facilities that SCE&G  
7 will be required to build to connect Units 2 and 3 to  
8 the transmission grid, and will present the cost  
9 estimate for those facilities; and Kenneth Jackson is  
10 vice president of regulatory matters for SCANA Services,  
11 Inc., and will sponsor the tariff sheets for the initial  
12 rate increase, the rate design, and the peak demand  
13 allocators, as well as other information on which the  
14 revised rates request in this proceeding are based.

15 For the reasons stated in my testimony and that of  
16 the other witnesses in this proceeding, SCE&G  
17 respectfully requests that the Commission issue a  
18 combined order under the Base Load Review Act and the  
19 Siting Act, one, approving the application in this  
20 matter; two, granting a certificate of public  
21 convenience and necessity, authorizing SCE&G to proceed  
22 with construction of the new units; and three,  
23 determining, as provided in the Base Load Review Act,  
24 that the new units will be conclusively deemed to be  
25 prudently constructed and used and useful for utility

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1 purposes (a) so long as they are constructed in  
 2 accordance with the price estimates, with inflation  
 3 factors and contingencies that are contained in Exhibit  
 4 F in paragraphs 10, 13, and 16 -- 13 through 16 of the  
 5 combined application, and (b) so long as they are  
 6 completed in accordance with the scheduled completion  
 7 dates and contingencies specified in paragraphs eight  
 8 and nine of the combined application; four, authorizing  
 9 the company to put into effect the revised rates as set  
 10 forth in Exhibit N of the combined application for  
 11 service rendered on or after May 1, 2009; and five,  
 12 authorizing other relief, as required.

13 Thank you for your attention, and this concludes my  
 14 summary.

15 MR. BURGESS: Mr. Marsh, please answer any  
 16 questions that the other parties of record may have  
 17 of you, as well as those that may be asked by the  
 18 Commissioners.

19 CHAIRMAN FLEMING: Thank you. Mr. Guild?

20 MR. GUILD: Thank you, Madam Chair.

#### 21 CROSS EXAMINATION

22 BY MR. GUILD:

23 Q Good afternoon, Mr. Marsh.

24 A Good afternoon.

25 Q Now, I take it you would acknowledge that SCE&G is a

1 pioneer in this endeavor of seeking to build a new-  
2 generation nuclear power plant in the United States?

3 A I would say that SCE&G is among a number of utilities  
4 that are including new nuclear generation.

5 Q All right. And let's just try to figure out where you  
6 are in the list of pioneers, then, if you're among  
7 others. How many other AP1000s have been approved by  
8 state regulatory authorities under their respective  
9 Siting or Certificate Acts?

10 A To my knowledge, none have been approved to this point.

11 Q Right, so you're going to be the first in that list of  
12 pioneers, if, indeed, this Commission does what you're  
13 asking them to do by February next?

14 A We would be the first that has gone through the  
15 regulatory process for first siting and gaining approval  
16 for --

17 Q Okay.

18 A -- the new plant.

19 Q Exactly. And none of the fellows -- none of that  
20 pioneer group has received a license from the U.S.  
21 Nuclear Regulatory Commission?

22 A No, there are 12 applications that have been filed with  
23 the Commission for -- the Nuclear Regulatory Commission,  
24 excuse me -- for AP1000s, but none has been approved at  
25 this point.

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1 Q All right, sir. Now, you project that the cost of two  
2 AP1000 units, as you propose, will total only -- our  
3 heads spin when we say "only," now-- only \$6.313  
4 billion for two units, correct?

5 A I believe that's the number we provided, yes, sir.

6 Q And as we alluded to last time, when you had these  
7 lovely full-page ads, you've told the public that the  
8 electricity from these nuclear units will be sold to  
9 them at 7-1/2 cents kilowatt-hour, correct.

10 A Those ads were intended to reflect the cost of nuclear  
11 power relative to other sources that would be available  
12 at this time. That's in 2008 dollars, and those numbers  
13 are derived from the application we had filed with the  
14 Commission.

15 Q All right, sir.

16 A The Commission application includes appropriate  
17 contingencies and inflation factors associated with that  
18 construction process, that brings you up to the 6.3  
19 billion.

20 Q And is the basis for that 7-1/2 cents a kilowatt-hour  
21 claim, correct?

22 A Well, the 6.3 billion is the inflated cost in 2019-2020  
23 dollars. That \$75 per kW is based on the current cost  
24 in 2008 dollars.

25 Q Uh-huh. Well, in your -- you have a website, don't you,

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1       called SCNNuclear.com?

2       A     I believe we do.

3       Q     Sponsored by SCE&G and Samtee Cooper, and it has fact  
4       sheets associated with it, and under the fact sheet  
5       called "Nuclear Power is Economical," you show the same  
6       number, 2008 bus-bar estimates, dollars per megawatt-  
7       hour: Nuclear, \$75." That's what you've got on your  
8       website yesterday, correct?

9       A     That's correct.

10      Q     Now, can we agree that that \$6.313 billion, whether  
11      that's the final tab, or not, with all the contingencies  
12      we're going to be talking about, that that \$6.313  
13      billion significantly exceeds your company's market  
14      value entirely, which was \$4.15 billion as of July 28th  
15      of this year?

16      A     Yes, that would be the current -- subject to check, that  
17      would be the current market value of the company in  
18      today's dollars, compared to 6.3 billion it would be in  
19      2019 dollars.

20      Q     All right. And I've got a document here that's a  
21      presentation by the Nuclear Energy Institute. You're  
22      familiar with that outfit, aren't you?

23      A     Yes.

24      Q     Is the company a member of that organization?

25      A     Yes, we are.

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1 Q Okay. Now, they make a -- they have a table called "The  
2 Challenge of Scale," and they show 11 of your pioneer  
3 applicants for new nuclear units, and would you be  
4 surprised to learn that South Carolina Electric & Gas  
5 Company is at the very bottom, number 11, in terms of  
6 the size of your market capitalization, on the list of  
7 people applying for new nuclear?

8 A Yeah, I've seen that presentation, and -- I believe I  
9 have seen it, and I do recall we probably are at the  
10 lower end of the list in terms of marketing value.

11 Q Yes, sir. So is there anybody else out there, amongst  
12 the pioneers, that has a small market capitalization,  
13 smaller than \$4.15 billion as of July of this year that  
14 your company has? Anybody -- any smaller pioneers out  
15 there, that you know of?

16 A I'm not aware of the market values of all the companies.

17 Q So you're going to be the first in line for a PSC  
18 approval, and you're the smallest. Those two facts are  
19 clear, are they not?

20 A That may be the case, but I don't think that's  
21 indicative of our ability to construct the plants  
22 successfully.

23 Q I see. Now, in the event that the two units are  
24 approved and they don't cost the \$6.313 billion, and the  
25 electricity does not come out at 7-1/2 cents a kilowatt-

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1 hour, how are your ratepayers going to be protected from  
2 paying the excess costs?

3 A I'm confused by your statement, because we did not say  
4 that at \$6.3 billion, the cost would be \$75 per  
5 megawatt-hour.

6 Q Oh, so the ad that says electricity is going to cost 75  
7 cents a megawatt-hour or 7-1/2 cents a kilowatt-hour  
8 doesn't mean that?

9 A As I explained earlier, the purpose of that ad was to  
10 provide information to consumers about the relative  
11 value of the bus-bar cost of nuclear, compared to other  
12 alternatives in 2008 dollars. It was not our filling  
13 with the Commission to show them the dollars it would  
14 generate, the 6.3 billion, based on the total contract  
15 price.

16 Q Well, I'm confused. I got your ad, and I'm a consumer.  
17 And it doesn't have any kind of fine print on that ad  
18 that says, "Pay no attention to the \$75-a-megawatt-hour  
19 promise," because that's in, you know, some kind of  
20 different dollars than the dollars I'm actually going to  
21 be spending. And I don't see any note to that effect on  
22 your website yesterday. You just say it's going to cost  
23 \$75 a megawatt-hour, or 7-1/2 cents a kilowatt-hour.

24 A Again, that in today's dollars.

25 Q Yes. Well, what's it going to cost in real dollars when



1 people actually throw the switch -- when you actually  
2 throw the switch, and people actually start consuming  
3 electricity from these units?

4 A I believe it will be around \$100 per megawatt-hour based  
5 on the 6.3 billion.

6 Q All right. So you're now projecting not 7-1/2 cents a  
7 kilowatt-hour, but 10 cents a kilowatt-hour.

8 A Based on the filing, that would be correct.

9 Q Well, let me rephrase my question now that we've sort of  
10 jacked the price up a bit here. In the event that it  
11 doesn't cost 7-1/2 cents a kilowatt-hour -- because you  
12 just told me it's not going to cost that -- in the event  
13 that it doesn't cost 10 cents a kilowatt-hour, but costs  
14 more than that, what in the Base Load Review Act is  
15 going to protect the ratepayers of South Carolina from  
16 paying that higher cost?

17 A My understanding of how the Base Load Review Act works  
18 with respect to what we present this Commission is that  
19 in our filing today, we have applied through the Act  
20 with the 6.3 billion, based on the contract cost of our  
21 plant and plus the other costs associated with  
22 construction, and what we project the final cost would  
23 be, based on various inflation factors and contingencies  
24 associated with the project, So long as we stay within  
25 the dollars we projected based on the inflation factors

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1 that are included in the estimated escalation, we would  
2 be at that price.

3 If we go outside of that price, based on those  
4 factors, it's my understanding that we would need to  
5 come back to ORS and before this Commission to update  
6 the Base Load Review filing and put that information in  
7 front of the Commission, explain what led to changes,  
8 what may have been the cause of those changes, and  
9 present testimony at that time for the Commission's  
10 consideration.

11 Q All right. I kind of didn't follow that too well, but  
12 let's just say it costs 11 cents a kilowatt-hour. Are  
13 you going to allow us to get the Commission to hold you  
14 to the 10 cents?

15 A I think I just explained that. It depends on the  
16 dollars included in the filing, which we've estimated at  
17 this point based on our contract price, inflation  
18 factors which are required to be included in the Base  
19 Load Review filing, and estimates of contingencies. If  
20 we were to go above that and that resulted in a price of  
21 11 cents, we would have to come back to ORS and back to  
22 the Commission to update our application to have them  
23 consider the reasons for those increases and whether or  
24 not those were prudently incurred.

25 Q So what I'm hearing you say -- tell me if I've got it

1 right -- is, you're not prepared to make any promises  
2 about what the maximum electric costs are going to be,  
3 produced by these proposed nuclear units?

4 A We have taken steps in the contracting process to try to  
5 fix as many of the costs as we can, to gain a firm  
6 foundation on what we believe the costs will be, as  
7 required under the Base Load Review Act. We've applied  
8 what we believe are appropriate inflation factors to  
9 those costs and included contingency dollars, so we  
10 projected the 6.3 billion.

11 Q Let me try it another way now. Will you promise not to  
12 ask for more than 12 cents a kilowatt-hour? Yes or no?

13 A That's not possible to do today, based on the way the  
14 filing works.

15 Q Should I take that as a no?

16 A I'm here to represent what we've asked to do in the  
17 filing, and I can't make a prediction that it's 12  
18 cents, 11 cents, or 10 cents.

19 Q All right. How about 13 cents a kilowatt-hour, will you  
20 promise that it won't be higher than 13 cents, and you  
21 won't ask for any more money beyond 13 cents a kilowatt-  
22 hour?

23 A My commitment to this Commission is that we have worked  
24 very hard to draft a contract that balances the needs of  
25 the consumers versus the needs of the company. We have

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1 filed under the Base Load Review Act, and our commitment  
2 is that we will follow that procedure, and if there are  
3 changes in those numbers as we go through the process,  
4 if it's appropriate, we will make sure we come before  
5 this Commission and present that information to them.

6 Q All right. Is there any number I could offer, any  
7 number, sir, that you would commit to today as the  
8 maximum price per kilowatt-hour that you will promise  
9 this Commission and ratepayers you will charge from the  
10 output of the V.C. Summer plants, be it 15 cents a  
11 kilowatt-hour, 20 cents a kilowatt-hour, 25 cents a  
12 kilowatt-hour, going, going, gone? Any price?

13 A Based on our evaluation, the cost of these two plant, as  
14 we expect them to be constructed in accordance with the  
15 Base Load Review filing and the contract we have signed  
16 is 6.3 billion.

17 Q I take that as a no. Is that a fair understanding of  
18 your answer, Mr. Marsh?

19 A I'm trying to explain --

20 Q No promises, right? No promises?

21 A Well, our promise is we will follow the rules of the  
22 Commission and the Base Load Review process to keep the  
23 Commission informed of the construction process and what  
24 the price may be.

25 Q Okay. Let's just boil it down then. You interpret the

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1       Base Load Review Act as a blank check, don't you?

2   A   No, sir, I didn't say that.

3   Q   Well, then, what is the number on the check. Any number  
4       at all? Or are you prepared to say today only that the  
5       number is to be filled in at some future time?

6   A   We're talking about a very complex contract. We spent a  
7       long time negotiating, trying to fix as many quantities  
8       as we could, trying to nail down as much of the price as  
9       we can. That's one of the risks that we saw back in the  
10      '70s from our experience, and we've tried to overcome  
11      that risk by managing that to the fullest extent we  
12      could, knowing there's a balance between how much you  
13      can fix and how much you can get at a firm price per  
14      contract.

15           I'm sure, if we had asked Westinghouse to give us a  
16      firm price, they would have given us a number at some  
17      point that they felt like they could absolutely deliver  
18      the contract. We didn't choose to do that, they didn't  
19      choose to do that. We felt like it was better to try to  
20      manage the process and put that information before the  
21      Commission under the Base Load Review filing --

22   Q   All right. So --

23   A   -- and that's how it was done.

24   Q   Thank you. So suffice it to say, the contract that  
25      you've entered into with Westinghouse and their

1 consortium is not a turnkey contract where they promise  
2 to deliver the goods for a fixed price?

3 A There are parts of it that are turnkey, parts of it that  
4 are fixed.. The parts that are fixed is subject to fixed  
5 indices, and parts of it will be adjusted based on  
6 inflation factors,, as included in the Base Load Review  
7 filing..

8 Q So I take that answer to mean, no, it's not a turnkey  
9 project except in some part?

10 A It's not 100 percent turnkey project. Parts are fixed  
11 and parts are subject to escalation, as presented in the  
12 filing..

13 Q Now, in your summary, Mr. Marsh, you said that if the  
14 Commission -- paraphrasing now, if I've got this right  
15 -- if the Commission gives you the Base Load Review Act  
16 order that you're seeking here, this is the best I got,  
17 the financial risk will be manageable. Now, does that  
18 mean that if the Commission gives you what you're asking  
19 for,, Wall Street will finance the construction if  
20 ratepayers are required to pay the costs of the ongoing  
21 financing of the plant?

22 A I'm not sure how to respond to your question. Let me  
23 try and you can ask another one if you have concern.  
24 Under the Base Load Review Act, the Commission is deemed  
25 to have made a decision on the prudence of the plant

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1       upfront, which gives a signal to the Commission [sic]  
2       that there is regulatory support for the construction of  
3       the plants and their ultimate inclusion in rates. That  
4       is a critical part of being able to raise financing, I  
5       would say not just for a nuclear plant but for any major  
6       construction, whether it be any other base-load facility  
7       or intermediate facility.. Wall Street needs to see  
8       signals from the Commission that there is some level of  
9       support before they will commit their investor dollars  
10      to underwrite the cost of the project.

11    Q    Right, but it's not just a signal, is it, Mr. Marsh?  
12        It's a signal of ongoing ratepayer responsibility for  
13        paying the carrying costs of your construction.

14    A    Well, those costs that are prudently incurred under the  
15        Base Load Review filing, they are subject to an annual  
16        review which would provide for customers paying the  
17        carrying costs associated with construction today.

18    Q    Okay. And with that obligation of customers to pay the  
19        carrying costs, you're telling us that you think Wall  
20        Street will finance the capital requirements for the  
21        project.

22    A    What we said is it makes the risk manageable, because it  
23        sends a number of important signals to the financial  
24        community. One, as I mentioned earlier, it shows that  
25        there is regulatory support for the projects and that

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1 they are deemed prudent. But I think more importantly,  
2 the fact that the Commission, under the Base Load Review  
3 filing, would allow the company to recover the carrying  
4 costs associated with construction while those units are  
5 being built would save in the overall construction price  
6 by \$1 billion, and then over the life of that plant it  
7 saves another \$4 billion that would not have to be  
8 charged to the customer because the initial construction  
9 costs were less. That's a positive to Wall Street  
10 because there's less risk of those costs compounding  
11 during the construction period and you've got a smaller  
12 number you have to finance over the life of the project.

13 Q At the expense of your ratepayers, who will be paying  
14 the carrying costs in the meantime?

15 A You know, under the regulatory process we follow here in  
16 South Carolina, you know, ratepayers today, or our  
17 customers, do pay for the carrying costs of all of our  
18 regulatory assets. It's not just this new nuclear  
19 plant.

20 Q Well, so you were reminiscing about your Cope plant  
21 permitting approval by this Commission, in your summary.

22 A Right.

23 Q You didn't have a Base Load Review Act at that time, did  
24 you?

25 A No, we didn't.



1 Q And you built the Cope plant, and you've just been  
2 rhapsodic about how that process worked just fine..

3 A We had several preapproved rate adjustments in that  
4 process of bringing that plant into rates, where we  
5 started the construction, we presented the schedule to  
6 the Commission, under which we committed to a  
7 construction schedule and dollars. We had the  
8 Commission review and approve a subsequent rate increase  
9 without having to come back to the Commission, subject  
10 to final review -- I guess it was the Commission staff  
11 at that point -- of the cost of the plant. So, in  
12 concept, it was very similar to the Base Load Review  
13 Act.

14 Q Well, if the concept was simple enough to suit you, why  
15 do you need the Base Load Review Act now for the two  
16 nuclear plants? Why don't you just follow the process  
17 you followed for your Cope plant?

18 A Times have changed. During the '90s we went through a  
19 process where there was significant pressure for  
20 deregulation. I think at that time, we were probably  
21 one of the few companies building base-load generation.  
22 I haven't checked, but that may be the last base-load  
23 coal plant that was built in the nation. It was  
24 important for the Commission to signal that they  
25 supported those plants, and I think in today's

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1 regulatory environment where some Commissions or some  
2 states have deregulated, our State has not, it's a very  
3 clear message that needs to be sent to the financial  
4 community that there is support, and because we're  
5 talking about a process that's 12 years later than that,  
6 the dollars are significantly larger, and any message we  
7 can send to Wall Street that provides not only for  
8 support from the Commission but would ultimately lower  
9 the cost of the plant -- not just \$1 billion dollars  
10 during the construction period, but an additional \$4  
11 billion over the life of that plant -- is significant.  
12 Those are positive signs to Wall Street that the plant  
13 can be built, it will be included in rates, and it's  
14 likely to come in on time and on budget.

15 MR. GUILD: All right. Could I ask counsel if  
16 you could provide Mr. Marsh with a copy of Ms.  
17 Brockway's surrebuttal testimony and exhibits,  
18 please? Do you have that handy, or can I get it up  
19 here, perhaps [indicating]? Actually, I just found  
20 a copy up here -- can I provide this to the  
21 witness?

22 BY MR. GUILD:

23 Q Mr. Marsh, I'm handing you Ms. Brockway's surrebuttal  
24 testimony, and appended to that is an exhibit that I  
25 trust you will recognize. These are excerpts from the

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1 Exhibit NB-4, for identification. It's excerpts from  
2 the final report, July 2008, South Carolina Climate,  
3 Energy & Commerce Committee. Have you found that, sir?

4 A Yes, I've got that.

5 Q All right. Now, you're familiar with that body?

6 A Yes, I served on that committee.

7 Q All right. And if you would turn to page iii, members  
8 of the South Carolina Climate, Energy & Commerce  
9 Advisory Committee -- do you have that, sir?

10 A Yes, I do.

11 Q All right. And I noticed that your name is there?

12 A It is.

13 Q And you are shown as having replaced Mr. Bill Timmerman,  
14 who attended the first meeting?

15 A That's correct.

16 Q Did you attend meetings thereafter?

17 A I did.

18 Q And approximately how many meetings did you participate  
19 in, Mr. Marsh?

20 A I believe I attended all the meetings but one, if my  
21 memory is correct.

22 Q And rough number, how many would those be?

23 A I'm guessing four or five..

24 Q Okay. Now, along with you, were a number of other  
25 colleagues, Mr. Lomnie Carter --

1 CHAIRMAN FLEMING: Excuse me.

2 BY MR. GUILD:

3 Q -- the president and CEO --

4 CHAIRMAN FLEMING: Mr. Guild.

5 MR. GUILD: I'm sorry.

6 CHAIRMAN FLEMING: Excuse me, could you tell  
7 us exactly where you are reading from?

8 MR. GUILD: Yes, ma'am, I'm sorry. This is an  
9 exhibit to Ms. Brockway's surrebuttal testimony.

10 CHAIRMAN FLEMING: The third page -- oh, I  
11 thought it was an exhibit.

12 MR. GUILD: I'm sorry. It's the third small-  
13 numbered pages, ma'am.

14 [Brief pause]

15 MR. GUILD: May I proceed?

16 CHAIRMAN FLEMING: Yes, go ahead.

17 BY MR. GUILD:

18 Q Your colleague, Mr. Carter, the CEO of Samtee Cooper,  
19 your respected partner in this project, was a member?

20 A He was.

21 Q All right. As was Mr. James Rogers, the chairman and  
22 CEO of Duke Energy?

23 A That's correct.

24 Q And I don't mean to neglect anybody else, but three of  
25 the senior executives in the South Carolina electric

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1 utilities were members of the committee, correct?

2 A That's correct.

3 Q Okay. Now, the committee adopted several  
4 recommendations, and I want to draw your attention to a  
5 couple of them that are reflected in the excerpts in  
6 this document. If you turn to the next page, it's an  
7 appendix entitled H-1. It's the next page in the  
8 document. Do you have that, sir?

9 A I do.

10 Q Now, that's what's referred to as the energy supply  
11 sector policy recommendations, and it's ES-1, and I  
12 think I heard you say in your summary one of the  
13 elements of that recommendation is indeed that 6 percent  
14 of energy served by new nuclear resources by 2020 -- 6  
15 percent of the State's energy be served by new nuclear  
16 by 2020. ES-3?

17 A Yes.

18 Q I'm sorry, ES-1c is what I mean to say.

19 A Yes, -1c, correct.

20 Q -1c, all right. -- but in addition to that, you  
21 mentioned in your opening, there are two other  
22 recommendations: ES-1a, which is that 5 percent of  
23 energy be met with energy efficiency resources by 2020  
24 -- correct?

25 A That's correct.

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1 Q -- and that also by 2020, 5 percent of energy is served  
2 by renewable resources, by that same benchmark date.  
3 Correct?

4 A That's correct.

5 Q Now, I notice that on the right-hand column on that  
6 table, there is a heading "Level of Support," and that  
7 recommendation, those three elements in it, passed with  
8 a supermajority, as indicated by that note, correct?

9 A That's correct.

10 Q With a parenthetical saying there were three objections.

11 A You want me to agree to that? That's what it says, yes.

12 Q Yeah, just asking you to acknowledge that.

13 A Sure.

14 Q Yes.

15 A Yes.

16 Q All right. And who lodged those objections, Mr. Marsh?

17 A I don't recall all of the three, but I was one of them.

18 Q All right.

19 A And you might find this interesting, but I objected to  
20 the nuclear piece of that.

21 Q All right. We'll turn to that in a minute, but that  
22 helped. Thank you. You don't recall the other two?

23 A I don't recall who the other two were. My concern was  
24 over the cost of nuclear they had included in the  
25 analysis.

1 Q All right. Now, if you would, turn to the next page, H-  
2 2, and would you just read, please, at the end of that  
3 first line, "renewable energy"? "The term 'renewable  
4 energy' is defined as follows," and would you just read  
5 that definition for the record, please?

6 A Tell me again where you're reading?

7 Q Yes, it's the top paragraph on page H-2.

8 A Okay.

9 Q "'Renewable energy' is defined as follows."

10 A All right. "'Renewable energy' is defined as follows:  
11 A renewable energy resource includes solar; wind; small  
12 hydroelectric; geothermal; ocean current or wave energy;  
13 biomass resources, including agricultural waste, animal  
14 waste, wood waste, spent pulping liquors, combustible  
15 residues, combustible liquids, combustible gases, energy  
16 crops, and landfill methane; waste heat derived from a  
17 renewable energy resource and used to produce  
18 electricity; and hydrogen derived from a renewable  
19 energy resource."

20 Q All right, thank you. Turn, if you would, to the next  
21 page, H-3, again the same recommendation from the CECAC  
22 committee. Under the title "Policy Description," would  
23 you read that second paragraph that begins with the  
24 words "energy efficiency"?

25 A "'Energy efficiency' includes applications that provide

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1        ~~measurable~~, ~~verifiable~~, ~~long-term~~ savings to the retail  
2        customer, compared to current technology in use,  
3        including but not limited to appliances, lighting,  
4        ~~heating-ventilation-and-air-conditioning~~, building  
5        envelope, and efficient ~~motors~~."

6        Q     All right, sir. And skip on down a little bit. "Policy  
7        design," would you read the first sentence of the  
8        "Goals" paragraph, please?

9        A     "Each public or private utility generating electricity  
10       in South Carolina for sale within the State will ~~meet~~ at  
11       least 5 percent of its South Carolina retail customers'  
12       electricity needs by 2020 through energy efficiency and  
13       ~~demand-response~~ program ~~implementation~~."

14       Q     All right, sir. Now, the next paragraph addresses the  
15       question of renewables. That's the second prong of that  
16       policy recommendation. And would you read that first  
17       sentence, please, as well?

18       A     "Each public or private utility generating electricity  
19       in South Carolina for sale within the State will ~~meet~~ at  
20       least 5 percent of its retail customers' electricity  
21       needs by 2020 from renewable energy placed into service  
22       after ~~December~~ 31, 2003."

23       Q     All right sir. Thank you. Now, page H-5, please?

24       A     [Indicating.]

25       Q     There's a table at the bottom of H-5 which spells out

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1 what the elements of energy efficiency and renewables  
2 are understood to mean in the CECAC policy  
3 recommendation. And can we agree that energy efficiency  
4 is defined as 1 percent demand reduction per year by  
5 2015, 1.5 percent per year by 2020?

6 A I can agree that's what it says, understanding that  
7 these are goals and not mandates.

8 Q Well, we'll turn to that question in a moment, but --  
9 and with regard to offshore wind, as just one other  
10 example, can we agree that the report on renewables, the  
11 policy recommendations, understand the renewables to  
12 include 500 megawatts in 2015 of offshore wind, and 500  
13 megawatts in 2017, correct?

14 A I agree that it has that in the table as goals to be  
15 considered.

16 Q Well, it doesn't say goals to be considered, it just  
17 says those values, does it not?

18 A Well, you know, you had to be there for all the meetings  
19 to understand and appreciate all the discussion that  
20 went into coming up with the goals that were put into  
21 this report. I mean, we had a significant amount of  
22 debate, as you can imagine, based on the representatives  
23 from the State that were in those meetings, and there  
24 was a lot of discussion. As we started out talking  
25 about what we should do to help reduce greenhouse gases,

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1 we started out with talking about a non-emitting source  
2 of generation. And as part of that, you know, we had  
3 nuclear and alternative-sources generation all included  
4 in one area.

5 Q I'm going to get down to what that nuclear is in one  
6 second now. I don't mean to cut you off, here, but I  
7 wanted to let you --

8 A I just wanted to describe the process we went through,  
9 so you can understand how we come up with the different  
10 categories.

11 Q Good, and I want to understand what your objections  
12 were, because we're going to get to that in a second,  
13 Mr. Marsh, but the last element in here is indeed your  
14 nuclear. And what does it say, it says 1,000 megawatts  
15 in 2017, correct?

16 A That's not specifically SCE&G's nuclear, that is nuclear  
17 to be considered.

18 Q That's nuclear for the entire State of South Carolina,  
19 that's the plan for renewables and new nuclear. It says  
20 1,000 megawatts in 2017, does it not?

21 A You've got to understand --

22 Q Mr. Marsh, how about just tell me whether I'm reading it  
23 right.

24 MR. BURGESS: Madam Chairman, if Mr. Guild  
25 would be so kind as to allow Mr. Marsh to finish

1 his answers to the question?

2 MR. GUILD: I'm happy to have him explain,  
3 Madam Chair, but first of all, can we just agree  
4 that I'm reading it right?

5 BY MR. GUILD:

6 Q It says 1,000 megawatts in 2017, nuclear, correct?

7 A I will agree that's what the chart says, but as I  
8 started to say, in understanding how all of these work  
9 together, is the committee worked to come up with these  
10 goals -- and they are goals. You know, what we decided  
11 as a committee is we would offer up a possible scenario  
12 for future consideration by the General Assembly if they  
13 decided to accept these recommendations and evaluate  
14 them further..

15 The key here is on evaluating them further,, because  
16 in the analysis that was done, there was no relevant  
17 cost analysis done to determine the impact on customers  
18 and the impact on the ultimate consumers in South  
19 Carolina, and that was the biggest shortfall of this  
20 report, and that was noted in final comments that were  
21 given on the report, and it was noted in public comments  
22 that were given on the report, and even in the excerpt  
23 from the executive summary it states "The CECAC did not  
24 break those costs or savings down to the individual  
25 household or organization levels for each option, and

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1 has not fully evaluated the costs or benefits of each  
2 policy from a broader macroeconomic, social, or  
3 environmental standpoint. Further evaluation of both  
4 the broader impacts of the policy recommendations and  
5 the breakdown of costs and benefits should be considered  
6 prior to adoption by the State."

7 So while there was offered here a potential  
8 scenario of how these issues could be addressed to the  
9 State, it did not intend to say this was the only way  
10 they could be addressed.

11 Q Well, let's look at page H-14 to see what exactly you  
12 said at the time you endorsed this report. "Barriers to  
13 Consensus," page 14, you see that?

14 A Yes.

15 Q You told us earlier that one of these objections was  
16 your objection, Mr. Marsh. We've got three that are  
17 written out here. Which one is yours?

18 A I don't believe any of those captured it, as I stated it  
19 in the meeting. My comment in the meeting was that the  
20 price that was included for the nuclear option they  
21 evaluated was a price that I didn't think was the  
22 correct price, based on my knowledge of evaluations we  
23 were doing at that time on a combined -- excuse me --  
24 EPC contract with Westinghouse and Stone & Webster.  
25 That was my objection.

1 Q All right. Objection three reads as follows: Prefers a  
2 strong mandate, but fixed-goal nuclear costs are too  
3 high. That's not you?

4 A I don't recall saying a strong mandate, no, sir.

5 Q Oh, because it does say a strong mandate. That's kind  
6 of what confused me there, Mr. Marsh, because the  
7 objection about the nuclear is tied to one that says we  
8 want to have a mandate. These aren't just good ideas,  
9 these are things we're promising to do.

10 A If there was a mandate indicated there -- and I don't  
11 recall exactly the wording, but my concern was over the  
12 fixed-goal nuclear costs were too high, and the mandate  
13 of the committee was to try to figure out how to reduce  
14 greenhouse gases, and we came up with a number of policy  
15 goals and policy options to be considered further. If  
16 you want to state a strong mandate towards nuclear  
17 because that has a tremendous impact on reducing  
18 greenhouse gases, I don't have an issue with that. But  
19 in terms of a strong mandate of the specific goals, we  
20 were talking about putting goals up for further  
21 consideration.

22 Q So let me get this straight. You want there to be a  
23 mandate for your nuclear plants, but you want to get out  
24 of any kind of suggestion that you were committing to  
25 doing the other things, like energy efficiency or

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1       renewables. Those are just things we're going to study,  
2       but, heck, we're going to jump on that nuclear because  
3       we've got a mandate for that.

4       A    I don't believe I said that. What -- the purpose of the  
5       committee was to give the General Assembly ideas for  
6       further consideration as to how we could address the  
7       greenhouse gas emissions problem in the State of South  
8       Carolina.

9       Q    All right.

10      A    Nuclear was one of those options, and we wanted to make  
11      sure nuclear was not excluded from the evaluation  
12      process, along with the other ideas of alternative  
13      energy. We never said, in the meetings -- and you can  
14      go back and check the notes of the meetings. We never  
15      said we were opposed to alternative energy; we just did  
16      not want to exclude nuclear as an option, especially  
17      because of this need for base-load energy in the State.

18      Q    Well, Mr. Marsh, this report has been on the street  
19      since July 2008. Have you written to the Governor or  
20      Representative Hagood, or other members of the committee  
21      saying, "Oh, that report, it doesn't accurately reflect  
22      what I said or what we decided." Did you write that  
23      letter, Mr. Marsh.

24      A    I did. I could read it to you, if you'd like. It says,  
25      "The Governor's Climate, Energy & Commerce Advisory

1 Committee has conducted an intensive process established  
2 to, among other objectives, consider the potential  
3 benefits, costs, savings, and feasibility of related  
4 energy policy and economic opportunities, and develop  
5 specific recommended actions.

6 "On behalf of South Carolina Electric & Gas, I  
7 appreciate the opportunity to participate in the CECAC  
8 process. While I would prefer to endorse the entire  
9 report, as discussed in the committee meetings, concerns  
10 remain about the validity of some of the background  
11 data, as provided by the Center for Climate Strategies  
12 and several significant policy recommendations which  
13 were not adopted unanimously.

14 "Many of the CECAC's recommended actions are  
15 positive, including focusing on energy efficiency  
16 measures, encouraging green power purchases, tax credits  
17 for efficient vehicles, technology research, and  
18 incentives in public education and outreach. However,  
19 several recommendations could have negative consequences  
20 on SCE&G's customers and on South Carolina's economic  
21 competitiveness through increased cost due to limited  
22 access to adequate resources. These recommendations  
23 include but are not limited to overall voluntary  
24 reduction in greenhouse gas emissions 5 percent below  
25 1990 levels by 2020. While this may appear as a

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1        laudable goal, such actions taken independently by any  
2        state would be insignificant. The only way to achieve  
3        meaningful reductions in greenhouse gas emissions is  
4        through a comprehensive and national policy. Taken  
5        separately, with our limited available renewable  
6        resources, South Carolina citizens may not be able to  
7        afford an independent approach. Furthermore, only with  
8        a national policy affecting all states will South  
9        Carolina remain economically competitive (ES-1, -1a-b,  
10       'Efficiency and Renewable Portfolio Standard'). The  
11       stated objective of 5 percent renewables and 5 percent  
12       efficiency by 2020 could inject more negative economic  
13       impacts to households, small businesses, and industries.  
14       First, significant technology limitations may prevent  
15       achievement of the target; second, since South Carolina  
16       is severely restricted in access to reasonable, cost-  
17       effective renewable resources, the State risks an even  
18       further eroding of any potential economic  
19       competitiveness, as power costs would escalate  
20       significantly. This assertion is based on CCS's  
21       inability to reduce this recommendation down to the  
22       impact on the consumer. Efficiency and renewable power  
23       as policy goals without consideration of cost represent  
24       a very risky policy for the citizens of South Carolina.

25        In taking these concerns one step further, one must

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1 continue to question the background data and  
2 calculations, as was noted during the CECAC process.  
3 The data resources provided by CCS were not always  
4 verifiable, nor were the quantification methods and  
5 calculations fully explained. There may have been other  
6 methods to consider, but this process did not allow for  
7 that option. For example, when a request was made  
8 during the process for an analysis of the impact of the  
9 recommendations on electric rates, the analysis was not  
10 conducted. It's important to recognize that the  
11 executive summary notes that the CECAC did not break  
12 those costs or savings down to the individual household  
13 or organizational levels for each option, and has not  
14 fully evaluated the costs or benefits of each policy.  
15 Further evaluation of both the broader impacts of the  
16 policy recommendations and the breakdown of costs and  
17 benefits should be considered prior to adoption by the  
18 State. This is a significant comment and must continue  
19 to be emphasized. Should any of these recommendations  
20 be considered by the South Carolina General Assembly,  
21 it's imperative that comprehensive cost-benefit analyses  
22 be conducted prior to the acceptance and implementation  
23 of any recommendations.

24 "Thank you for the opportunity to participate in  
25 the process and for taking these concerns into

1 consideration."

2 That was my letter addressed to Ben Hagood, who  
3 served as the chairman of the CECAC committee.

4 Q And when did you write that letter, Mr. Marsh?

5 A August 28th.

6 Q So after the report was out, you had the report in-hand,  
7 you wrote the letter?

8 A I had -- I wrote the letter after they asked for public  
9 comments, yes.

10 Q And would you mind sharing a copy of that letter with  
11 us, for our use, please?

12 A I don't have a problem with that [indicating].

13 Q All right [indicating]. Now, I heard what you said  
14 there in the letter. That's helpful to know that you  
15 went on record, objecting. Let's go to page H-13 of the  
16 report. Would you read that last bullet, please, under  
17 "Key Uncertainties"?

18 A "In the interests of advancing the recommended policies,  
19 the members are accepting the best available numbers as  
20 being reasonable, although individual members may  
21 disagree with certain assumptions."

22 Q All right, sir. Are you saying that you did not, in  
23 fact, agree to accept the best available numbers as  
24 being reasonable?

25 A What we agreed to was to accept the numbers as they were

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presented, with respect to the policy goals that were identified. We didn't make the calculation of the individual impact on potential customers in South Carolina, and that was our biggest concern. There were a number of ways that we could have gone back and evaluated different options. We were not allowed to do that. We basically had one process we followed, and that was the process offered by Clive & Porter.

Q And how about the "Key Uncertainties," second bullet, would you read that one for us, please?

A "Nuclear costs and feasibility in the 2020 timeframe."

Q Let's look at page H-7, please?

A [Indicating.]

Q This is a list of data sources cited by the committee that you were on, and under "Cost of Power Plants," H-7 cites, the second bullet, Moody's Investors Services, "New Nuclear Generation in the United States: Keeping Options Open Versus Addressing an Inevitable Necessity." That was cited, was it not?

A It was, and we specifically had discussion over that and a number of members on the committee took exception to the information in that report.

Q I guess you must have been one of those, if you're telling us that now, right?

A Yes, I was.

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1 Q Okay. The next item, again, cited as a data source for  
2 the cost of power plants by the CECAC committee, Kathryn  
3 Morris et al., "Nuclear Power Joint Fact-Finding," The  
4 Keystone Center, June 2007. The Keystone Center report  
5 is cited as a source, correct?

6 A That's what it says here, yes.

7 Q And then down further on the page with regard to  
8 experience in other states, "Five Years in an  
9 Examination of the First Half Decade of Public Benefits:  
10 Energy Efficiency Policies," author, American Council  
11 for an Energy Efficient Economy. That's a source, is it  
12 not?

13 A Yes it is.

14 Q Turn to page H-11, please?

15 A [Indicating.]

16 Q Now, with regard to the cost of energy efficiency  
17 measures or saved electricity, the CECAC report makes  
18 the following observation -- would you read, please?  
19 It's the middle of the page above the Table H-4.

20 A "The cost of saved energy is assumed to be 3 cents per  
21 kilowatt-hour following residential, commercial, and  
22 industrial technical working group analysis of policy  
23 RC-1."

24 Q All right, sir. And you see below that a cost of energy  
25 efficiency measures or saved electricity from other

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1 states, and there's a range of values there that range  
2 from 2 cents a kilowatt-hour to 3.8 cents a kilowatt-  
3 hour, correct.

4 A Yes.

5 Q And there's a table above that, citing the installed  
6 cost of nuclear power, and it cites a value of \$5,700 a  
7 kilowatt, citing Moody's. Correct?

8 A That's correct.

9 Q You took exception to that estimate of the cost of  
10 nuclear, I take it?

11 A We did.

12 Q Now, on page H-12, the CECAC report notes costs per  
13 megawatt-hour for offshore wind, and what value do they  
14 list there as the cost of offshore wind, dollars per  
15 megawatt-hour?

16 A \$122.

17 Q All right. Now, your website for the V.C. Summer plant  
18 lists the cost of offshore wind not as \$122 a megawatt-  
19 hour but \$173 a megawatt-hour. Would you accept that,  
20 subject to check?

21 A Subject to check, yes.

22 Q All right. Now for photovoltaic solar, your website  
23 lists -- subject to check, would you agree -- \$656 a  
24 megawatt-hour, \$656. Would you accept that, subject to  
25 check?

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1 A That's correct.

2 Q All right. And what does the CECAC report say for  
3 utility-scale solar photovoltaic?

4 A They show \$192.

5 Q All right. You say 656 when you're telling your  
6 customers what a great deal nuclear is, but the CECAC  
7 committee on which you participated projected \$192,  
8 correct?

9 A I'm not sure the 192 is calculated on the same basis as  
10 the 656.

11 Q Well, we don't know what the basis for the 656 is,  
12 because you don't bother to cite any data sources in  
13 your public pronouncements about what a bargain the  
14 nuclear plant will be.

15 A That's not true. You know, we calculated 656 based on  
16 available cost of solar power, adjusted for operating  
17 cost and fixed charge ratios adjusted by the capacity  
18 factor of those different sources of energy. It's not  
19 just the cost of the unit, it's how much you would have  
20 to build, based on the capacity factor, to provide the  
21 megawatts that you need, so --

22 Q Oh, I guess I missed the fine print. Well, there isn't  
23 any fine print, Mr. Marsh. You don't explain that at  
24 all in your website or your full-page ad, do you?

25 A They're all calculated on the same basis, so you're

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1 comparing apples to apples.

2 Q Well, it --

3 A That's why we presented --

4 Q -- may be an apple, but as far as the reader is  
5 concerned it's an orange. No one reading your website  
6 or your full-page ad would have any idea what the basis  
7 was for those estimates, only that you claim that  
8 photovoltaic is going to cost something like four times  
9 as much as the Governor's Climate, Energy & Commerce  
10 Committee says it will.

11 A We believe that to be true, because when you adjust the  
12 cost of solar photovoltaic panels by the capacity factor  
13 -- which is around 20 percent -- you're going to have to  
14 produce more of those to provide the megawatts you would  
15 need to attempt to replace nuclear energy.  
16 Mathematically, you'll actually never get there, because  
17 it only has a 20 percent capacity factor, so  
18 theoretically you could build as many as you wanted to,  
19 and it wouldn't operate enough to replace the energy  
20 from the nuclear plant.

21 Q Oh, I see. Well, could I get you to agree that you'll  
22 clarify that with your public? You're going to take out  
23 another full-page ad with a little explanatory note  
24 saying, "Don't really take that number at face value.  
25 It really is the cost of the incremental additional

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1 generation," or whatever you explain it to be. Are you  
2 going to put a note on your website and issue a new ad  
3 so that we'll really understand that the 7-1/2 cents per  
4 kilowatt-hour bargain price, compared to the exorbitant  
5 price of photovoltaics, should all be understood in the  
6 terms you just explained?

7 A Well, I think consumers could read that information and  
8 decide that \$75 is a better price than 656 a megawatt-  
9 hour.

10 Q But they'd be misled, wouldn't they, Mr. Marsh?

11 A I don't think so.

12 Q Well, they would be misled without the additional  
13 information explaining how you generated the \$656 value,  
14 wouldn't they?

15 A They were all calculated consistently and on the same  
16 basis, so the information is comparable between one form  
17 of generation to another.

18 Q I see. So you're not going to make the correction or  
19 add that as additional information to your public  
20 communication?

21 A I don't think a correction is necessary.

22 Q Understood.

23 MR. GUILD: If I could have just a moment,  
24 Madam Chair, please?

25 CHAIRMAN FLEMING: Yes.



1 MR. GUILD: Thank you, Mr. Marsh, that's all I  
2 have. Madam Chair, thank you.

3 CHAIRMAN FLEMING: Okay. Mr. Elliott?

4 MR. ELLIOTT: No questions of this witness.

5 CHAIRMAN FLEMING: All right. Ms. McKinley?

6 MS. GREENLAW: She had to step out briefly,  
7 but she'll be right back.

8 CHAIRMAN FLEMING: All right. Ms. Warshawer?  
9 We'll come back to her.

10 MS. WARSHAUER: Thank you, Madam Chairman.

11 CHAIRMAN FLEMING: Yes.

12 CROSS EXAMINATION

13 BY MS. WARSHAUER:

14 Q Good afternoon, Mr. Marsh.

15 A Good afternoon.

16 Q Almost evening, I guess. So, I'd like to ask you a few  
17 questions related to item number three of the  
18 application, which states that the purpose of the  
19 application is for your company to, quote, "meet the  
20 growing demand of its customers for electric power."  
21 And I just want to share with you my recent bill, from  
22 October, and I live at 3526 Bountbrook Lane, in  
23 Columbia. And in October of 2007, we used 911 kilowatt-  
24 hours, and in 2008 we used 642 kilowatt-hours. That  
25 shows less use of electricity this year than last year,

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1 correct?

2 A Yes.

3 Q Yeah. And then in the gas therms, we used 15 therms  
4 last year and two this year, so that would also be a  
5 reduction, correct?

6 A Yes, it would.

7 Q Yeah. So in the interim, we had installed a solar hot  
8 water heater, which is reflected in our gas because we  
9 had had a gas hot water heater before, and for the  
10 electricity side we had installed CFL light bulbs and  
11 improved our attic insulation. We had a component added  
12 on -- we had enclosed our carport and there were lots of  
13 leaks in there, and we had somebody come in and close  
14 all those up; and the door jamb, which was like air-  
15 conditioning or heating the outside, we closed that up.  
16 And we started using our clothesline more, and turned  
17 out the lights more, and turned off the computers at  
18 night. So we voluntarily, you know, engaged in demand-  
19 side reduction to lower our cost, and if my neighbors  
20 took all of these steps, they would also see similar  
21 reductions; is that correct?

22 A I'm not sure on the relative reduction in your bill. I  
23 suspect, with the actions you took, it did impact a  
24 reduction in your bill. I don't know if some of that  
25 could've been due to the weather side. I don't know if

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1 the exact percentage can be duplicated, but certainly,  
2 if they took those steps, I would expect their energy  
3 use to go down.

4 Q Yeah, the weather was similar. Last year was 73 degrees  
5 average temperature, and this year was 69 degrees  
6 average temperature. So we ended up paying -- this year  
7 we had a reduction of \$92 to \$71 on electricity, and  
8 from \$31 to \$12 in the gas. So we had a considerable  
9 reduction, almost half in the gas -- or over half, in  
10 the gas, and a lot in the electricity. So I guess what  
11 I'm getting at is, if you were able to somehow get  
12 everyone to -- incentivize everyone to do these measures  
13 and more, as has been discussed in the comments earlier  
14 this morning, wouldn't you see a huge decrease in  
15 demand?

16 A Well, it depends. When you develop programs that would  
17 encourage energy efficiency expenditures, and everybody  
18 does those, you wouldn't see a reduction in demand. I  
19 don't know, if you take that for all of the customers in  
20 the State -- I don't know what you invested on those  
21 technologies or what you paid for additional insulation,  
22 or what it took to seal up all those leaks, and the cost  
23 of that versus, you know, what you actually saved on  
24 your bill. But from our perspective, we would need to  
25 make sure that the cost that we would pay, if we were

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1 paying those incentives to customers or encouraging them  
2 to do that and there were costs associated with that, we  
3 would need to make sure what we were encouraging them to  
4 do was technologically feasible, that they would  
5 voluntarily agree to do that, either with or without the  
6 incentive, and that the results of that would be  
7 permanent and ongoing, that they would produce the  
8 desired results over the long term. In other words,  
9 they would have to be sustainable.

10 But on top of that would be what would you pay to  
11 save that money, versus what you actually saved at the  
12 end of the day. And our responsibility is to make sure  
13 when we do that evaluation for our system, that we  
14 incorporate those measures in our calculations and our  
15 forecast, as Dr. Lynch has done. He's made provisions  
16 for the new efficiency standards for heating and air-  
17 conditioning equipment, new efficiency standards on  
18 light bulbs that are going into effect, I think it's in  
19 2012, '13, and '14, and other factors that customers  
20 would be either required to do or could voluntarily do.

21 Q All right. I understand that currently there may be not  
22 as many incentives for customers to do all of those  
23 measures -- especially the solar hot water heater; that  
24 was a pretty big expense for us -- but isn't it true  
25 that currently nuclear power is considering a

1 considerable incentive from the federal government,  
2 witness the loans that you've applied for? Isn't  
3 nuclear power being subsidized currently, in that sense?

4 A Well, if we are successful in obtaining the federal loan  
5 guarantees for the debt that we might issue to support  
6 the cost of the nuclear plant, that will not result in a  
7 reduction in cost. As Mr. Addison could probably  
8 explain better than I can, the way that program is  
9 designed, there will be a cost associated with the debt,  
10 and then there are credit financing costs, credit  
11 subsidy costs that you have to take to the federal  
12 government. So the combination --

13 Q But --

14 A -- of the lower interest you might receive from issuing  
15 federally backed debt, combined with the credit subsidy  
16 cost you would pay to the government, should come close  
17 to what you would pay in an open-market bond sale.

18 Q So why are you applying for the loan subsidies?

19 A We felt like it was a prudent process to apply for those  
20 and we have included ourselves in the process until we  
21 know exactly what the federal guarantees will provide.  
22 There's no clear signal at this point as to how those  
23 will be designed, what the actual cost will be, but we  
24 felt like it was prudent to stay in the process at this  
25 point until we do understand more about what they may

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1 provide, but we don't expect those to lower the overall  
2 cost of financing the plant.

3 Q Right, but you wouldn't have applied for them if you  
4 didn't expect there to be a benefit at some level, maybe  
5 --

6 A Well, we don't know if there will be a benefit,  
7 because --

8 Q And --

9 A -- we don't know what the cost will be. But I'm sure,  
10 if we had not applied, and somebody felt there were a  
11 benefit, we would have been accused of not applying  
12 prudently.

13 Q They haven't discussed the terms of the loan?

14 A No, they have not. We've been to -- and Mr. Addison  
15 could go into this further -- but we've been to one  
16 meeting, that was DOE, where they gathered information  
17 from the company. They have provided no data as to the  
18 cost of the program or what the cost will be to the  
19 company, so we don't know at this point, you know, what  
20 those costs might be, but we felt like we needed to stay  
21 in the process until we do know if we believe it's  
22 prudent to do so.

23 Q So that's just an in-case scenario for you, then?

24 A Well, we certainly hope it's positive, and we think with  
25 our plant and the filing we've got before the

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1 Commission, if it's approved it will certainly put us in  
2 a position where we think we'll be favorably listed in  
3 the final rankings that come out.

4 Q So what I'm trying to get at is that our federal  
5 government currently has in place some programs that  
6 help you finance nuclear power; is that correct?

7 A The cost of that program will be underwritten by the  
8 industry. The government is simply going to provide the  
9 guarantees, and they will calculate the credit subsidy  
10 cost associated with those programs, and those costs  
11 will be passed on to the utilities that take advantage  
12 of the programs. So I don't think it's a correct  
13 assumption to say that the federal government is going  
14 to pay for those programs. They're simply offering  
15 these programs.

16 Q Well, if they -- we're having a new administration  
17 coming in, as everyone knows, and there's going to be a  
18 lot of new programs going to be offered. Would you  
19 agree that it could very well be a totally different  
20 scenario, as far as subsidies and incentives coming in,  
21 beginning in January and through the next six months or  
22 12 months or four years?

23 A I don't think there's any question that the new  
24 administration, they've taken a very strong stance of  
25 making sure that we support alternative power, that we

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1 support reduction in greenhouse gases -- which is likely  
2 to lead to a carbon tax. I think they've indicated  
3 those are all things they want to look forward to. And  
4 nuclear has not been excluded from that list, either.

5 Q No, it hasn't been excluded, but it hasn't been really  
6 actively promoted, and so we say that's neutral maybe.  
7 Maybe it will stay the same, maybe it won't. But we do  
8 know that there's been a strong interest expressed in  
9 these renewables and the demand-side management  
10 efficiencies, like things that I just mentioned and that  
11 you would be evaluating in your home visits, that you  
12 were saying maybe it wouldn't be cost-effective, but  
13 what I'm suggesting is, and asking you if you agree,  
14 that maybe in the next year or so, we'll see greater  
15 incentives for these kinds of measures that would reduce  
16 the demand and the residential usage?

17 A And I think only time will actually tell us that, as the  
18 new administration decides --

19 Q Right.

20 A -- what its priorities are. But we've accounted for  
21 that in the plan we have presented to the Commission.  
22 We provide what we thought the needs would be for our  
23 customers in 2016 and 2019. We're talking about base-  
24 load capacity --

25 Q But have --

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1 A -- being used the majority of the time, and that we have  
2 not excluded -- I think in my testimony and Dr. Lynoth's  
3 testimony, we both said we have not excluded that  
4 there's -- or, eliminated the need for alternative  
5 energy and demand-side management as part of the  
6 portfolio that we would look to have in the long term.

7 Q You have -- you have included -- it seemed to me, from  
8 what I've read of your -- Dr. Lynoth's testimony that he  
9 included a limited amount of reduction with CFLs and the  
10 CEER, the air-conditioning and heating efficiency, but  
11 he didn't have a very extensive -- I could imagine a  
12 much more extensive program than he felt compelled to  
13 include. I guess he felt compelled to include those  
14 programs that would be mandatory because those are four  
15 things that you count upon and project, but what I'm  
16 suggesting is that, as my husband mentioned this  
17 morning, we're really in a transition state right now,  
18 and we really don't know what's going to be coming  
19 around the corner, do we?

20 A Well, you know, we stated in our testimony, in mine and  
21 in Joe's, I believe, that we believe there is a place  
22 for demand-side management. We have some very active  
23 demand-side management programs now. We currently have  
24 a study underway to evaluate what other programs we  
25 might bring to the Commission and offer them for

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1 inclusion in our portfolio, because I mentioned earlier  
2 one of the key keys to success for DSM programs is  
3 customer acceptance. We now see, because of rising fuel  
4 prices, because of diminishing reserve margins, that  
5 there is a renewed interest in demand-side management  
6 options. We've had other utilities file with the PSC in  
7 the past 12 months; we expect to have our information  
8 around the middle of next year, for additional programs  
9 that we'll offer the Commission. But we go on to say  
10 that, while we do expect to have additional programs, we  
11 don't believe, based on our analysis, that the  
12 additional megawatts that are saved from those programs  
13 will be enough to eliminate the need for the base-load  
14 generation that's going to be provided by the nuclear  
15 plants.

16 Q You don't believe there will, but you don't know that  
17 they won't, do you?

18 A Well, the difficulty is, you know, from where I sit, I'm  
19 responsible for making sure, when customers need  
20 electricity, that we've got it available. And with the  
21 plan we presented to the Commission for the two new  
22 nuclear plants, when that first plant comes online in  
23 2016, we'll still be at the very low end of our reserve  
24 margin. Our reserve margin's to try to have enough  
25 reserve capacity of 12 to 18 percent. We'll be right at

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1 13 percent when that first plant goes online.

2 Q Well, that gets into another whole question, which I'm  
3 not going to go into right now, which would be how you  
4 predicted the demand, which is another line of  
5 questioning. Right now, I want to get back to what was  
6 in my bill. And I have a very attractive brochure, "Set  
7 the Pace," and it has two children running along a green  
8 meadow barefoot, on, I guess, very clean grass. And  
9 inside it invites me and all of the other ratepayers in  
10 my area, I imagine, to contribute just \$4 a month, and  
11 that will help provide 100 kilowatt-hours of renewable  
12 energy, which is about 10 percent of an average home's  
13 monthly usage. And it says SCE&G is making it easy to  
14 help you help the environment.

15 And let's see, my question here is, if I'm  
16 calculating this correctly, if I contribute \$4 per month  
17 for 100 kilowatts of renewable electricity, that would  
18 be 4 cents per kilowatt-hour; is that correct?

19 A That's correct.

20 Q So that would be less than I'm paying right now. I'm  
21 paying nine point -- point -- if you can help me here,  
22 but, yeah, \$.099540, so that would be about 10 cents,  
23 right?

24 A Yes.

25 Q Okay. So now I'm paying 10 cents, and this brochure

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1 says I could get renewable energy for 4 cents, right?

2 A Well, it says you're going to pay \$4 per kilowatt-hour  
3 that goes to Palmetto Clean Energy to help subsidize the  
4 development of clean energy technologies. It doesn't  
5 say that's going to completely pay for it. It is a  
6 subsidy that would go to people who would ultimately  
7 provide that power to SCE&G, that, in return, is put  
8 into our system. So that does not cover the total cost  
9 of the clean alternative; that's just a contribution to  
10 help support that.

11 Q Well, that's -- I mean, I don't want to be  
12 argumentative, but it sounds a little misleading, kind  
13 of like what Mr. Guild had mentioned in the other ad.  
14 I'm not sure why you would mention the 100 kilowatt-  
15 hours of renewable energy if it wasn't actually going to  
16 get that.

17 A I would need to read all the information on the  
18 brochure, but we've had a lot of information out, we've  
19 had press conferences, we've had information available.  
20 I think it's also available on our website, or a link to  
21 the PaCE website that describes in detail how this  
22 program works and that the goal is to take those dollars  
23 and funnel those to Palmetto Clean Energy with the idea  
24 that they would support those renewable energy options  
25 that are being evaluated and investigated.

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1 Q They're being evaluated and investigated, but they're  
2 not being provided?

3 A They would be provided. They would ultimately be  
4 provided at the end of the process. And the idea is,  
5 with the dollars that come from PaCE, with incentives  
6 that may be available, tax incentives or other  
7 incentives that may be available to the provider of the  
8 clean energy, they can redeem enough money to support  
9 their continued production of green power.

10 Q Why do you have to have this voluntary contribution for  
11 clean energy? Aren't you already committed to it, as a  
12 company? Why do you need to have me make that  
13 additional charitable donation?

14 A Well, we are trying to make a contribution to those that  
15 aren't cost-effective in today's marketplace, like  
16 photovoltaics and like solar, along with wind. And in  
17 our analysis, we've evaluated those as cost -- if you  
18 pay the full cost of the technology and bring that  
19 directly onto the grid without any type of subsidy, it's  
20 too costly for our customers.

21 Q What -- you're asking the Commission to approve -- I  
22 believe I'm correct in saying -- a 37 -- over the course  
23 of the life of the project -- 37 percent increase in my  
24 mandatory monthly -- mandatory -- you know, I'm being --  
25 would be mandated or obligated to pay an increase to

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1 support this nuclear power, these nuclear power plants.  
2 Is that the correct amount?

3 A Yeah, I believe the testimony is right at 2-1/2 percent  
4 a year over the 12-year period. And that covers the  
5 full cost of what we have projected is the cost of  
6 nuclear plants as we've included in the Base Load Review  
7 filing, and that supports the evaluation that was done  
8 that says when you compare the cost of that nuclear  
9 energy against other available alternatives, whether  
10 that be coal, gas, or alternative energy supplies, that  
11 is the cheapest option for the customers over the long  
12 term.

13 Q But you're talking about subsidies and contributing to  
14 something that you wouldn't be able to do without  
15 subsidies, but it seems to me like I'm subsidizing the  
16 nuclear path, and where -- I'd really rather be doing  
17 this [indicating], because you-- isn't that -- don't  
18 you think that a pretty brochure like this, it's kind of  
19 feeding into my natural desire to have a clean world,  
20 isn't it?

21 A And we hope that people will elect to do that, because,  
22 as I've said before, we're not opposed to alternative  
23 energy, we're not opposed to wind, we're not opposed to  
24 solar, we're not opposed to those forms that are higher  
25 cost today than nuclear but over the long term have a

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1 place in our generation plant. The problem with the  
2 renewables, in most cases -- in all cases that I'm aware  
3 of -- they don't provide enough consistent energy when  
4 you need it to meet the needs of base-load customers,  
5 and that's where nuclear has the advantage.

6 Q Well, I think we'll get to that a lot later on, too,  
7 with all the different alternatives. I mean, biomass is  
8 pretty stable, but I just wanted to -- this kind of  
9 reinforces your point, I think, but I notice in the  
10 areas that you're serving, Lexington was included,  
11 correct?

12 A That's correct.

13 Q That's correct? So in the paper last week, there was a  
14 panel report from -- Lexington town officials received a  
15 town advisory committee report that says the town  
16 officials should take energy savings steps that include  
17 incentives to builders to insulate more, recycled  
18 materials, and place homes under trees, and has quoted  
19 Britt Poole as saying, "This is going to become the way  
20 to do things."

21 This is in the town of Lexington, it's not -- you  
22 know, I spent some of my adult life in Cambridge,  
23 Massachusetts, which they are a liberal area, but this  
24 is Lexington, which is right here in South Carolina,  
25 right here next to us, and not necessarily even

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1 considered an area that might -- not a conservative-  
2 leaning area -- I mean, not a liberal-leaning area, I  
3 would think. I guess it doesn't matter, those labels,  
4 but what I'm saying is, if you're trying to meet the  
5 needs of the customers and the desires of the customers  
6 and the push and the real desire to be more efficient  
7 and to do whatever it takes, even if it costs more, even  
8 if you're going to make a contribution, a voluntary  
9 contribution, don't you think that there's a tremendous  
10 groundswell of interest and excitement about renewables  
11 that you could tap into in offering us something that we  
12 really would love to pay even more for than the 37  
13 percent, perhaps?

14 A Well, that has not been our experience. And our  
15 evaluation has been, you know, customers have the choice  
16 to decide what they may want to do for energy efficiency  
17 or demand-side expenditures, and those are dollars that  
18 come out of their pocketbooks, and so they'll ultimately  
19 make the decision if they want to make those cost-saving  
20 decisions or expenditures to generate savings on their  
21 bills. It's a cost-benefit analysis. With Palmetto  
22 Green -- Palmetto Clean Energy, we did some research  
23 before we formed this organization, and our experience  
24 was that we had 47 percent of our customers indicated  
25 that they would have an interest in participating in the

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1 organization. Once it was made available and the  
2 information to date shows that we've had less than 1  
3 percent of our customers sign up to participate and  
4 support that objective.

5 That's been a very similar case that Santee Cooper  
6 had. They've had their green energy program for a long  
7 time. They had the same type results from their  
8 surveys, but I believe they're still less than 1 percent  
9 participation by the customers.

10 Q Well, you're asking people to give up their  
11 discretionary dollars for something that's kind of  
12 imaginary in the future, but if it were -- if you were  
13 advocating, as the panel that you served on, I guess, is  
14 going to advocate in the State Legislature, incentives  
15 from the government or from federal or State level -- if  
16 you were to advocate for that or if they were to come  
17 online, you probably would see different behaviors,  
18 because we know -- wouldn't you -- we know that people  
19 respond to incentives in their tax dollars or wherever  
20 they're presented.

21 A Customers don't always respond -- and we'll have some  
22 witnesses testify to these facts later on in the case,  
23 on demand-side management. Some customers will respond,  
24 others will not. At the end of the day, there is a  
25 point beyond which you can't assume everybody will

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1 respond. The alternative we would have at this point,  
2 as we have to make a decision today about long-term  
3 energy needs, is if we decided to do wind, to do solar,  
4 in an effort to try to replace nuclear, customers  
5 wouldn't have the choice of paying the higher cost of  
6 those verses nuclear, if that's the option we brought to  
7 the Commission.

8 What Palmetto Clean Energy is designed to do is to  
9 give them the option of contributing those dollars  
10 voluntarily and not being forced to do that if they  
11 don't choose to.

12 Q I'm not sure if I followed that whole image, how you  
13 ended up and that part, but -- one more second. So you  
14 were saying that you're going to have witnesses that  
15 don't choose to do this, even though they could?

16 A I said we'll have witnesses that will talk about  
17 customers' desire to participate in demand-side  
18 management for energy efficiency programs. We have  
19 witnesses who will speak to that.

20 Q Whether they do or they don't or how that breaks down,  
21 that kind of thing?

22 A Yes.

23 Q Uh-Huh. But we know for example in your tax code if  
24 you're given a discount for your charitable deductions,  
25 most people will take the discount, correct?

1 A Sure.

2 Q So, similarly there could be an incentive that most  
3 people would really want to participate in, given the  
4 right incentives and the right presentation, correct?

5 A I think that's a great point, because there are costs  
6 associated with those incentives, and the way demand-  
7 side management is treated in the regulatory process,  
8 traditionally, is the cost of paying those incentives is  
9 also passed on to customers. So it's a balance of what  
10 are you paying for the demand-side management programs  
11 versus what are you going to pay for energy to provide  
12 the same megawatts that you might have displaced.

13 Q That's if you were providing the incentives?

14 A Right.

15 Q But if a different entity -- if the government were to  
16 decide to give a mandate, as the incoming administration  
17 may or as the State government may, after reading these  
18 proposals from the panel that you've served on, then we  
19 could see another option, another way for some of those  
20 entitlements to be financed; is that correct?

21 A If time produces those, and those are cost-beneficial to  
22 the customers, we would certainly evaluate those for  
23 inclusion in our overall process. I --

24 Q Well, thank you, very much.

25 MS. WARSHAUER: Thank you, very much.

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1 CHAIRMAN FLEMING: At this time, we are going  
2 to take a 15-minute break. We'll be back between  
3 20 and 25 after.

4 [WHEREUPON, a recess was taken from 4:07  
5 to 4:26 p.m.]

6 CHAIRMAN FLEMING: Please be seated. The  
7 hearing will come to order. I think we're at Mr.  
8 Joe, right?

9 MR. WOJCICKI: Yes, if you'll let me.

10 CHAIRMAN FLEMING: Ms. McKinley has not  
11 returned, correct?

12 MS. GREENLAW: I believe she's left.

13 CHAIRMAN FLEMING: Okay.

14 MS. GREENLAW: Thank you.

15 CROSS EXAMINATION

16 BY MR. WOJCICKI:

17 Q Please be let me show my -- how to say -- respect to you  
18 as a person who is leading very important part of policy  
19 on electricity and distribution electricity between the  
20 residents of South Carolina. My first question -- my  
21 question will be probably pretty easy for you, comparing  
22 to the previous list of the questions. The first  
23 question is that we already know that you are one of the  
24 member of the -- one of the -- this is what's called  
25 committee?

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1 A The CECAC, the climate-change study committee?

2 Q On climate?

3 A Yes.

4 Q Okay. Are you also the member of other committee or  
5 commission, advisory commission to the Governor of South  
6 Carolina?

7 A No, I'm not.

8 Q Okay. My second question is, what kind of issue, from  
9 the meetings, discussions, and documents from this  
10 committee or commission was injected in your  
11 application, this one we are right now reviewing?

12 A You know, we didn't include any of that report in our  
13 application. That report was presented to the Governor.  
14 I think it was done -- I don't remember -- the report  
15 was probably presented to the Governor after we filed  
16 our application. I don't remember the exact date; I  
17 remember that committee finishing its work in about the  
18 May timeframe and the final report going to the Governor  
19 sometime during the summer. But as such, I would still  
20 consider that, you know, just as a report for  
21 consideration, and I didn't see anything in there that  
22 was against, you know, what we were proposing in our  
23 application here at the Commission, because we  
24 recognized that there could be a place for renewables  
25 and other alternative sources of electricity as part of

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1 our ongoing process and plan that we provided to the  
2 Commission.

3 Q In this issue, there was any information about the  
4 Governor's plan to build a huge investment except this  
5 one in the State of South Carolina? Are you aware of  
6 another million billions dollars' investment plan in the  
7 State of South Carolina or not?

8 A In additional nuclear facilities, or any facility?

9 Q Any facility. Because each of the facility requires  
10 electricity, right?

11 A I don't know of any alternative sources that would reach  
12 that magnitude, because of the number of megawatts that  
13 would be involved to replace nuclear base-load  
14 generation. I do know Duke is considering constructing  
15 two units in South Carolina.

16 Q No, this is not about generation, this is about the  
17 load. Do you expect some other load, big load, to  
18 happen somewhere?

19 A Oh.

20 Q Say, somebody is going to build oil refinery, for  
21 example. This is a huge load.

22 A Well, I know from conversations I have from time to time  
23 with our personnel in the company that are involved in  
24 economic development, there continue to be different  
25 levels of interest expressed in moving to South

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1 Carolina. I can't point to one particular addition  
2 that's going to bring, you know, a 1,000-megawatt load  
3 to the State, but there are certainly people who  
4 continue to look at South Carolina because of its  
5 favorable regulatory position in terms of the rates we  
6 could give our customers that come to the State.

7 Q What's your opinion and position to the public voices we  
8 have heard here in the morning? Are you think that they  
9 represent public convenience and necessity, the voices  
10 we heard this morning? You were present here, right?

11 A Well, I certainly believe they spoke what was on their  
12 hearts and on their minds, in terms of what they believe  
13 is best for the State. I would have to offer as a  
14 citizen of South Carolina, with kids and grandkids, I  
15 probably have the same interests that they do in making  
16 sure we're doing the right things for the future of our  
17 kids over the long term. So my solution would be  
18 different from theirs, which is why I support the  
19 implication that we filed, but I believe the goal is the  
20 same, is to make sure we provide an environment for our  
21 kids and grandkids over the long term that's clean and  
22 addresses some of the issues that are facing us as a  
23 state and as a nation.

24 Q Let me rephrase. So you don't think that this negative  
25 -- or, opposition to the nuclear represents the public

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- 1 convenience and necessity?
- 2 A I believe that they certainly believe what they spoke.
- 3 I don't believe that is the prevailing view around South
- 4 Carolina.
- 5 Q So, you know, I'm almost like Commissioner asking, if
- 6 this voices has to be rejected over the public
- 7 convenience and necessity.
- 8 A I don't think the concerns they've got would provide the
- 9 evidence to the Commission that we should not approve
- 10 the application, as it's been presented. I mean,
- 11 certainly it's their opinion. We recognize they are
- 12 entitled to that opinion. I'm glad to have them come
- 13 express that, in --
- 14 Q But has --
- 15 A -- the process.
- 16 Q -- to reject in the decision. Okay. I'm not sure that
- 17 what I heard, that is several so-called wholesale
- 18 customer was no longer your client. Is that true?
- 19 A Which customer was that?
- 20 Q Wholesale, those guys that are just buying for to
- 21 sell --
- 22 Q Right. We have been providing --
- 23 Q -- electricity.
- 24 A We've been providing electricity to the City of
- 25 Orangeburg under contract that expires next year. They

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1 have given us notice that they do not intend to renew  
2 that contract, so we have taken the megawatts that were  
3 in our planning process out of that, along with, I  
4 believe the City of Greenwood, some additional megawatts  
5 because I don't anticipate that they will be there,  
6 based on our discussions with them.

7 Q Do you know the reason why they quit?

8 A I suspect, based on my knowledge, they wanted to pursue  
9 where the prices would be available in the market for  
10 the cost or figure that was provided to them.

11 Q So they're looking for cheaper electricity, right?

12 A There looking for a different price, yes.

13 Q Okay. Now, AP1000 are designed to live 60 years. The  
14 source of the energy is from uranium. And my question  
15 is, how long can expect the United States going to give  
16 you uranium to run your facility, not only this one but  
17 also you have one -- Unit No. 1 at Jenkinsville, and  
18 Cope. What would be perspective, still expect for 60  
19 years to have uranium from United States?

20 A We don't get all of the uranium from the United States.  
21 I'm comfortable with the analysis that we have done,  
22 that we have adequate supplies for our current nuclear  
23 plant, as well as the evaluation that was done for  
24 future supplies. I'm confident that they will be there.

25 Q Hmmm. You know, this may be my personal fear that we're

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1 going to have to buy from Russia. Just ignore my  
2 remarks. Next question is, I was listen to pretty long  
3 discussion, session of question and answer between you,  
4 sir, and Mr. Guild. And one of the problem I see here  
5 is a kind of inability to understand the number we  
6 receive from you, as a client, from your website. There  
7 was also something that I believe that, in this case,  
8 Mr. Guild was right; there was so-called comparing  
9 apples to oranges. From my knowledge and practice, the  
10 cost of the kilowatt-hours has to be -- if you compare  
11 two sources of the -- I want to buy kilowatt-hours from  
12 the Company A, Company B, I'm looking for so-called  
13 levelized cost of the kilowatt-hour. And in this case,  
14 I think -- especially because I'm involved in the solar  
15 energy, in Pickens Plan, as a so-called expert -- I have  
16 seen this number really wrong, put it this way. So what  
17 I think is very -- will be good for your company, if  
18 you're going to present some kind of results of the  
19 calculation, from the education point of view, much  
20 better would be, if you're going to show also -- in the  
21 Web you can put a lot this information. You can start  
22 with the beginning of the calculation, what are the  
23 input, show the method of calculation, and final give  
24 results.

25 One of my bosses say, "Joe, never try to confuse

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1 your readers or students because they stop to trust  
2 you." And your company is doing pretty good job in  
3 different places, including education. I think -- what  
4 do you think, it would be good if you can tell you  
5 people who are working this one, "Guys, give this kind  
6 of information," so Mr. Guild, Wojjicki, and other  
7 people will understand exactly the number are true and  
8 were calculated like should be done?

9 A Yeah. I thought we had done that in the calculation  
10 that we presented in the newspaper, and that calculation  
11 is on the website. All those numbers were calculated on  
12 a consistent basis by taking the capital costs  
13 associated with that type of generation, adding to that  
14 any fixed cost associated with that, operating cost, and  
15 adjusting for the capacity factor, along with the  
16 capital cost and those other costs they mentioned, puts  
17 them on the same basis so they're all calculated using  
18 the exact same formula, so the information that comes  
19 out is very comparable and it gives you a very good idea  
20 of the relative position of those different types of  
21 power sources.

22 Q I see you believe in the way this was done, but we are  
23 confused how this was done, if this are really so-called  
24 levelized cost of the kilowatt-hours. Also, one of the  
25 other problem is with looking at the cost of electricity

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1 is, if I'm looking to your tariffs, I sometimes see very  
2 low number for kilowatt-hours -- 5 cents, 6 cents, 2  
3 cents -- then I see another factor that industrial guys  
4 has to pay for megawatts, for megawatt reactive power,  
5 or for power factor, and they also have to pay some kind  
6 of mostly fixed number of dollars. So again, this has  
7 to be -- if we're talking about the costs, we have to be  
8 very careful how we present this one. It's just maybe  
9 -- I just have no question at this point, except I'm  
10 going to finish my questioning by one remark. Ms.  
11 Warshawer showed \$4 donation for renewable energy. Six  
12 months ago, I have seen in Mid-Carolina Cooperative,  
13 asking for \$3. Is that means that with six months we  
14 have this kind of devaluation in dollar, \$3 to \$4?

15 A I can't speak to what they provided in their bills.

16 Q Okay.

17 A Our \$4 is in there to support the development -- or,  
18 support the purchase of renewable energy and it's tax-  
19 deductible.

20 Q Yeah, we have to somehow support this kind of stuff.

21 MR. WOJCICKI: So thank you, very much.

22 CHAIRMAN FLEMING: Thank you. Ms. Greenlaw.

23 CROSS EXAMINATION

24 BY MS. GREENLAW:

25 Q Good afternoon. You're lasting a good, long time.

1 You're doing better than I am. I'm sorry, give me just  
2 a second. All right. Mr. Marsh, I just have a few  
3 questions that I think some of -- we've been just kind  
4 of hinting around the edges of them. When you're  
5 talking about looking at the replacement of base-load  
6 power plants with renewable energy, and you said it  
7 wasn't comparable and it's not actually practical, why  
8 are we looking at renewables as base-load? I mean, we  
9 have an emphasis on base load because that does provide  
10 the constant energy; is that correct? It's reliable,  
11 it's constant, you turn the light switch on and you get  
12 your lights?

13 A Well, base load is defined as that energy that's needed  
14 generally 65 to 70 percent of the time. It's that load  
15 that's pretty much there year-round, day-in and day-out.  
16 It's not subject to peaks and valleys.

17 Q Correct, okay. So when we're looking at replacing  
18 megawatts, we don't have to look at base-load options,  
19 do we? We can use those peak times and -- for those  
20 renewables to offset the power we would use otherwise  
21 from base-load plants; is that correct?

22 A I don't think so, based on my understanding of your  
23 question. Base load needs to be there 65 to 70 percent  
24 of the time, which is why, when you look for base-load  
25 generation, you're trying to build a facility that will

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1 provide that energy 65 to 70 percent of the time. The  
2 problem we have with renewables, particularly wind and  
3 solar, is they don't have capacity factors -- meaning  
4 the percentage of time that they're actually available  
5 for use -- high enough to meet that base-load  
6 requirement. Wind is normally around 30 percent and  
7 solar is generally around 15 to 20 percent. So, by  
8 definition, if you had enough megawatts of renewable  
9 energy, it's likely not to be there at the times you  
10 need it for that base-load need, 65 to 70 percent of the  
11 time.

12 Q But you're talking about using renewables as base-load  
13 fuel. I mean, you're looking at -- when you're talking  
14 about using solar, for example, you're talking about a  
15 solar plant; is that correct? Is that one of the  
16 assumptions -- I'm just trying to find out what some of  
17 the assumptions are that we're working with, because  
18 there are solar plants -- we don't have them -- but, you  
19 know, they do run into the problems that you have. But  
20 is that the assumption of the company when you are  
21 discussing renewables as, you know, being able to  
22 produce sufficient megawatts?

23 A Let me try to walk through the process and I think I can  
24 answer your question.

25 Q Okay.

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1     **A**     In defining the need, we look at the energy needs of our  
2           customers, and that first step shows that we have a need  
3           for base-load generation in that 2016-19 timeframe. We  
4           then look for available resources to meet that need,  
5           which has typically been done by coal-fired plants or  
6           intermediate-load gas combined-cycle plants in the past.  
7           We also considered nuclear in that mix. We evaluated  
8           renewable sources, but concluded that they did not  
9           provide a high enough level of capacity on a consistent  
10          basis to replace base load, so we did not consider it as  
11          an alternative to base load because of the inherent  
12          weakness in its ability to provide base load generation.  
13          That didn't mean we don't believe we can find sources  
14          for those uses on our system, just not as base-load.

15    **Q**     Right, correct, and that's what I'm hearing, and I just  
16           wanted to make sure that that was clear, because I don't  
17           think most people here who are supporting renewables are  
18           looking at renewables as a base-load model. We are  
19           looking at it as something to offset their use of  
20           whatever power comes from the base-load plant.

21           Let me go this way, okay? In terms of trying to  
22           promote renewable power, your company has chosen to use  
23           a very weak net-metering system. And I understand it's  
24           experimental; it's, you know, just fresh out of the box;  
25           and, you know, you're trying to work out some kinks and

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1 so on. But it seems that, if your company really wanted  
2 to promote renewables and have them available for PaCE,  
3 you would put a system into place whereby, if somebody  
4 wants to go ahead and bear those capital costs and put  
5 that, you know, either solar panels on their house, or  
6 whatever they have, that you would be able to use that.  
7 And from what I understand, you have only three  
8 renewable providers or suppliers, consumer generators,  
9 at the present time providing solar to the PaCE program  
10 with SCE&G; is that correct?

11 A I think that number may be higher at this time, but I'd  
12 have to get the exact number to give you that.

13 Q Well, I appreciate that. Okay, that's good. I think  
14 your number would be significantly higher if your  
15 company would change some of the work that you've done  
16 with your net metering. You've limited the amount of --  
17 well, let me ask you this, because I don't remember the  
18 number. What is your limit of peak load in your net  
19 metering? Is it .1 percent?

20 A I don't recall those specific numbers. I'll have to get  
21 you to address those probably to Kenny Jackson, who'll  
22 talk about the rate structure, or maybe Joe -- Dr. Joe  
23 Lynch. But we do provide, I know, four different  
24 options whereby consumers who self-generate and don't  
25 need the energy themselves can provide that energy to

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1 the SCE&G system. Under those options under the tariffs  
2 approved by this Commission, there are rates that we pay  
3 them for doing that. You know, our concern is we're not  
4 paying them for energy at a higher rate than I could  
5 purchase it elsewhere, for use by the other customers.  
6 I wouldn't want to, just because a consumer decided to  
7 put in a relatively expensive home generation system --  
8 let's just say it's a photovoltaic system -- that costs  
9 them a higher cost per kilowatt-hour than I could  
10 purchase that, that I should burden the rest of the  
11 customers on the system by purchasing that from you at a  
12 higher cost and passing that on to the other consumers  
13 who didn't make that investment.

14 Q Well, I don't think you have it structured that way at  
15 all.

16 A We don't.

17 Q You have it as avoided cost, at this point.

18 A We do.

19 Q You're not even giving one-to-one.

20 A And I think that may be part of the reason we've not  
21 seen a number of people, you know, jump and say, "I want  
22 to participate." I think it will be a slow-developing  
23 program. I hope, with PaCE and other incentives that  
24 may be available, we can encourage that industry to  
25 begin to develop, and I don't doubt that over time it

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1 may become more cost-effective. But until that time,  
2 we've got to protect what all of the customers on the  
3 system pay and not just those who have chosen to make  
4 those investments.

5 Q Would you explain what you mean, "protect other  
6 customers"? From what?

7 A Well, I wouldn't want to have -- as I said earlier, I  
8 wouldn't want to pay a home generator a higher price for  
9 electricity than I could purchase on the open market or  
10 generate myself, and pass that higher cost on to the  
11 consumers, the rest of my customers.

12 Q If you're giving retail rate, one-for-one exchange for  
13 their net -- you know, for their NEG, you know, then you  
14 wouldn't be paying a high rate.

15 A I wouldn't be, and --

16 Q No.

17 A -- I agree with that.

18 Q And I don't know of any system in the United States or  
19 anywhere, that tries to subsidize what people put on  
20 their homes, from the utility point of view. There are  
21 other kinds of subsidies, you know --

22 MR. BURGESS: Madam Chairman, we --

23 MS. GREENLAW: Oh, I'm sorry.

24 MR. BURGESS: -- would object to this line of  
25 testifying that Ms. Greenlaw is doing, and just ask

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1 that she please state a question.

2 CHAIRMAN FLEMING: Okay. If you could just  
3 ask the question.

4 MS. GREENLAW: I apologize. Thank you, I'm  
5 sorry.

6 BY MS. GREENLAW:

7 Q So is it your company's goal to improve your net  
8 metering system to encourage renewable power production  
9 by customer generators?

10 A You know, I think our goal is to follow the system we  
11 put into place and watch it develop. You know, we  
12 support the development of renewables where it makes  
13 economic sense to do so. And to the extent there are  
14 incentives that are available to help customers pursue  
15 those options, we support that. And to the extent we  
16 can purchase that power at fair rates and use it on our  
17 system, we're glad to do that.

18 Q Okay, thank you. I just have a few more questions.  
19 It's hard to read through this. In your -- I'm sorry.  
20 In your testimony on page 20 -- if I have the right one.  
21 I'm sorry. Yeah. On page 20, you stated on line 13 and  
22 14 -- lines 13 and 14 that SCE&G actually doesn't need  
23 more than one unit, one nuclear unit. Is that correct?

24 A Yeah, we don't need the capacity from two full units,  
25 that's correct.

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1 Q So if you don't need it from two full units, are you  
2 expecting it from like 55 percent of the units?

3 A What we attempted to do was, we knew we had a need in  
4 2016 and in 2019. Our belief was, as we've described in  
5 our testimony, that we felt like nuclear was the correct  
6 base-load generation option because it's clean, safe,  
7 and reliable, and meets the definition of base-load  
8 energy. So knowing we had to have two plants to fulfill  
9 that need, we felt like it was appropriate, and  
10 approached Westinghouse about negotiating for two plants  
11 as part of the evaluation process.

12 Santee Cooper has been a great partner with us for  
13 over 26 years in the current plant. They had expressed  
14 a desire to participate with us in that partnership, if  
15 it could be worked out in a favorable manner. We knew  
16 that there would be significant cost savings as a result  
17 of purchasing two plants versus one. And with them as a  
18 partner, that allowed us to build two plants, capture  
19 the savings, and then share that with consumers.

20 Q These are untested -- from what I understand, are these  
21 -- there are no -- are there prototypes for this AP1000?

22 A The first AP1000s are being built now in Japan. There  
23 are none that are actually complete today, but the  
24 design is an updated version of the pressurized water  
25 reactor that we operate today. Mr. Byrne can give you

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1 more detail on that, but it's a passive system versus an  
2 active system for safety applications. So we believe  
3 that, while it's a new design, we don't believe the  
4 nuclear technology is new, and a lot of the risks  
5 associated with completely new technology have been  
6 eliminated.

7 Q But it is a first-generation plant that you're putting  
8 in?

9 A It's actually what they call a Generation III, which is  
10 a new-generation facility..

11 Q Okay, but I guess what I'm saying is, this particular  
12 model is -- again, it's fresh out of the box, so to  
13 speak, and it doesn't have a track record at this point?  
14 If they just finished building one in Japan, we don't  
15 have a track record on it?

16 A They have not finished the one in Japan. It's under  
17 construction today. So there's not an AP1000 that has  
18 completed construction and is in operation.

19 Q Okay. So what you want to do is save money by buying  
20 two, but they're untested. Do you not find that risky,  
21 to buy two of something that hasn't been tested rather  
22 than buy one, run it through its paces, go back and look  
23 at the engineering design, let them tweak it before you  
24 put in -- you know, purchase a second one that's  
25 identical to the first? I mean, I don't know, it just

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1 -- it doesn't seem wise to me, I guess because I've had  
2 too many bad --

3 MR. BURGESS: Objection, argumentative.

4 CHAIRMAN FLEMING: Yes.

5 MS. GREENLAW: I'm sorry.

6 CHAIRMAN FLEMING: Ms. Greenlaw

7 BY MS. GREENLAW:

8 Q Yeah, let me just leave it there. Is it not a risky  
9 thing to put in -- to purchase two brand-new things that  
10 have no track record?

11 A I wish it were as simple as just looking at purchasing  
12 two units, because there are a lot of issues at play  
13 here. As I described earlier, you know, we first  
14 defined the need for base-load generation, and nuclear  
15 came to the top for all the reasons we've enumerated in  
16 our testimony -- it's clean, it's reliable, and it  
17 provides the energy we need, and we can build it, we  
18 believe, in the timeframe in which it's needed.

19 They are new plants, they are new designs. They're  
20 upgrades of existing plants that have been in operation  
21 for years. We have confidence in the company that has  
22 designed the plant. The design has been certified by  
23 the Nuclear Regulatory Commission. It is, you know,  
24 preparing to be constructed. We've spent a lot of time  
25 with Westinghouse and Stone & Webster, talking about the

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1 issues related to plant construction and operation, and  
2 we have satisfied ourselves that it will produce the  
3 energy, as provided.

4 The alternative is not to build the plants, which  
5 in my mind is significantly more risk than the risk  
6 there may be in building two new facilities that have  
7 not been in operation before. You know, we know from  
8 the messages we've received from the new presidential  
9 administration that carbon is going to be a big issue in  
10 the future, so that puts a huge negative flag on coal-  
11 fired generation and on gas-fired generation over the  
12 long term. We don't know what that's going to be, but  
13 it's likely to be very expensive.

14 These nuclear plants will protect us from that  
15 risk, not only by providing clean, reliable energy that  
16 doesn't produce any carbon emissions, but also if we  
17 have the need to shut down one of our older coal-fired  
18 units because it doesn't make sense to provide the  
19 retrofits to satisfy the new coal requirements, we have  
20 the possibility of using that nuclear generation to meet  
21 that need without having to put additional cost on  
22 consumers.

23 If we wait -- if we build one plant today and wait  
24 two or three years to build a second plant, I can just  
25 about assure you that the cost of the plant we would

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1 bring back to this Commission in two or three years  
2 would be significantly higher than the cost we've  
3 negotiated today, and also the cost of the existing  
4 plant would go up because we would lose the benefit of  
5 building two plants over a three-year period versus just  
6 one.

7 Q Okay, I'm going to let that one rest for a while. Will  
8 you define what you mean -- you keep saying "clean  
9 energy." Are you talking about only the emissions  
10 during the operations of the plant?

11 A I'm talking about no emissions from the plant  
12 operations, yes. No greenhouse gases.

13 Q Okay, so when you say "clean," you are referring to  
14 greenhouse gases?

15 A Yes.

16 Q That's it?

17 A Yes.

18 Q Okay, all right. Because I think that that's -- again,  
19 I know Mr. Burgess is going to jump up, so I'll have to  
20 rephrase this. I'm not sure why you're using that term  
21 "clean." Can you explain why you're using "clean" for  
22 just greenhouse gases, instead of just saying  
23 greenhouse-gas-emissions-free?

24 A Well, there's been a lot of discussion around the State  
25 and around the country about producing clean energy, and

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1 when they're talking about clean energy they're talking  
2 about non-emitting sources of electric generation, which  
3 nuclear falls into that category. That's why I use the  
4 word "clean."

5 Q Okay, thank you. All right, I'm going to move on. It  
6 just -- Mr. Burgess, go ahead and jump out. It just --  
7 it just seems that when we're looking at the fossilized-  
8 fuel, coal plants, you are trying to eliminate --

9 CHAIRMAN FLEMING: Yes, Mr. Burgess.

10 MS. GREENLAW: It's going to be a question.  
11 It's going to be a question.

12 MR. BURGESS: Madam Chairman, I would object  
13 to her intra. If she would, just go ahead and ask  
14 a question?

15 CHAIRMAN FLEMING: All right, sustained.

16 BY MS. GREENLAW:

17 Q Are you not looking at the entire from-cradle-to-grave  
18 on cleanliness in building a plant?

19 A In what fashion?

20 Q In terms of using the word "clean"?

21 A I'm not sure exactly what you're referring to, but, you  
22 know, there's --

23 Q Well --

24 A You know, we believe the plant has construction costs  
25 which we have defined, and has materials that go into

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1 the plant that we have defined, and, you know, those  
2 materials go into the plant that's designed to produce  
3 the megawatts that we need in an efficient, clean  
4 manner. There are no emissions from the operations of  
5 the plant, no greenhouse gases that come from the  
6 operation of these two nuclear plants.

7 Q So you're not -- are you not looking at the waste end  
8 product?

9 A The nuclear waste that's generated at the plant has been  
10 accounted for in our evaluation. With respect to the  
11 spent fuels -- and Mr. Byrne can address this in more  
12 detail -- we have the ability to store that spent fuel  
13 on-site in a safe manner for the life of the plant. So  
14 we believe it meets all the requirements of being able  
15 to store that fuel safely on-site. I see the safety of  
16 that fuel different from clean energy, in terms of  
17 emissions and greenhouse gases.

18 Q Okay, thank you for the clarification. You're talking  
19 about storing the energy on-site -- storing the -- I'm  
20 sorry -- the spent fuel rods on-site. How many years of  
21 storage do you have on-site, or will you have on-site  
22 for the AP1000?

23 A I don't recall the exact number of years. Mr. Byrne can  
24 address that specifically, but there's a period of time  
25 that you would hold the fuel in the spent fuel

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1 containment, which is within the containment building at  
2 the plant, and then once you've exhausted the storage  
3 capability from that pool facility, you would move to  
4 dry cask storage outside of the plant. I just don't  
5 recall the exact number of years you go from the spent  
6 fuel pool out to the dry cask storage.

7 Q Okay. So as far as security is going -- goes, would you  
8 define that for me? You're saying it's secure. Would  
9 you fill me in on that?

10 A Again, we have very strict security requirements at our  
11 nuclear facilities. We're required to maintain a  
12 properly trained, properly tested security force on-  
13 site. We have significant oversight from the NRC and  
14 others that regulate that and oversee the evaluation of  
15 those security forces, to make sure it's not just in  
16 place but that it has been tested and lives up to the  
17 expectations of adequate safety to protect the facility.

18 Q Do you have protection from overhead aerial attack?

19 A Our plant design will consider that in its final design,  
20 yes.

21 Q It will be considered?

22 A It is being considered in the design of the plant. I'm  
23 not sure if it's Revision 16 or 17, but it's being  
24 considered, and will be in the final design for the  
25 plant.

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1 Q Okay, thank you. I'm sorry. Mr. Marsh, on page 32 of  
2 your testimony, beginning around line 15 of that last  
3 bullet, you're expressing -- would you just read that  
4 for us, lines 15 through, I guess, 21? Do you mind  
5 reading that?

6 A I'd be glad to. "Construction delays and regulatory or  
7 legal changes could jeopardize SCE&G's receipt of  
8 federal production tax credits related to the units. In  
9 addition, SCE&G and Santee Cooper have planned to  
10 receive a full allocation of credits. However, if final  
11 tax regulations and determinations preclude Santee  
12 Cooper's and public power entities' eligibility for the  
13 credits, SCE&G and Santee Cooper have agreed to share  
14 the value of the credits they receive, subject to PSC  
15 approval."

16 Q Thank you. When you're talking about construction  
17 delays and these regulatory or legal changes, I'm not  
18 sure how that could jeopardize getting the tax credits.  
19 Is this a matter of getting it done within a certain  
20 time window?

21 A Yes. There are two critical dates by which you would  
22 qualify for the credits: By the end of 2008, you had to  
23 have filed your application with the NRC for a new  
24 nuclear facility, which is step one of the credits, the  
25 application process or qualification process; and I

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1 believe -- and Mr. Byrne can verify this -- by the end  
2 of December 2013, you have to have actually started  
3 construction on your nuclear plant, and there are some  
4 specific definitions that would qualify for construction  
5 in order to qualify for the credits.

6 So we have met the first requirement, in that we  
7 have filed our application with the NRC, so based on  
8 that, if we were not to meet the construction  
9 requirements by starting construction by the end of  
10 2013, we would not be eligible to receive production tax  
11 credits.

12 Q Okay, thank you. The tax credits -- I'm sorry. The  
13 regulatory issues, I think -- isn't NRC going through  
14 some new regulatory changes this time around? Haven't  
15 they had some changes in their procedures, when it comes  
16 to processing applications?

17 A In terms of the licenses?

18 Q Yes, sir.

19 A We filed what's called a combined operating license,  
20 which is very different than what we had back in the  
21 '70s and '80s. In the previous process, you had to  
22 apply for a construction license, and then once  
23 construction was completed you then had to reapply for  
24 an operating license. Under the new process, the COL,  
25 you get a combined operating license, which allows you

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1 to start construction and then go into operation once  
2 your unit is completed. You don't have to go back for  
3 the final operating license once the construction is  
4 over.

5 Q Thank you. I'm almost through. On page 36 of your  
6 testimony, you go into some of the items that don't have  
7 fixed or firm pricing, you know, wages, construction  
8 materials, consumables, and non-nuclear buildings. Does  
9 this include the water treatment plant that you're  
10 planning to build on-site?

11 A I believe that would fall into that category. I would  
12 need to check that with Mr. Byrne, in the details of the  
13 contract.

14 Q Okay. And at page 37, I'm just asking if you will  
15 explain lines 3 through 6, about how Westinghouse and  
16 Stone & Webster are at risk for a substantial percentage  
17 of the agreed-to profit or costs where they've exceeded  
18 that target price?

19 A Under the contract -- and Mr. Byrne can elaborate on  
20 this, if necessary -- there are certain items that are  
21 subject to target pricing. That includes a base  
22 construction cost, an amount for contingency, an amount  
23 of profit on top of that. To the extent that we meet  
24 the target price, we would be able to share that  
25 contingency with Westinghouse and Stone & Webster as an

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1 incentive to have them meet that target price. If they  
2 go above the base construction price and also go over  
3 the contingency that is in that calculation, we would  
4 then begin to reduce their profit portion of the target  
5 price, which would be the third piece in that  
6 calculation.

7 So they have incentive to bring the project in on  
8 budget, which would include meeting the target price, in  
9 order to receive a full payout of their profit. To the  
10 extent that they exceed that target price, plus the  
11 contingency included in that calculation, they would  
12 give up a portion of their profit.

13 Q It sounds like it's very tight. Okay, thank you. I  
14 wanted to ask you some things about distributed  
15 generation --

16 MS. GREENLAW: And if I need to stop, Madam  
17 Chairman, I'm willing, you know.

18 CHAIRMAN FLEMING: How much longer?

19 MS. GREENLAW: I keep lying and telling you I  
20 don't have much, so I'm not quite sure. Maybe five  
21 minutes.

22 CHAIRMAN FLEMING: Okay, why don't you finish  
23 your cross-examination.

24 MS. GREENLAW: Okay. All right, thank you.

25 >

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1 BY MS. GREENLAW:

2 Q Concerning the DSM programs, would you explain the  
3 process of smart grids?

4 A Smart grids is a technology that's being evaluated that  
5 would link the operation of your system to various  
6 computerized methods, whereby you could control  
7 different aspects of your system based on the most  
8 efficient ways to do that, at various times during the  
9 day. And I'm sure there are different definitions, but  
10 it would include sophisticated computer systems that  
11 would interconnect with major users and, in some cases,  
12 residential customers, in all phases of the operation  
13 for your system. So you could gather data that would  
14 help you determine the most efficient operation of your  
15 system.

16 That's very high-level discussion. I may get one  
17 of our engineers to give you some more detail when he's  
18 up here. But it's a way to gather data on the operation  
19 of the system through a computerized method that will  
20 allow you to model and make operating decisions that  
21 theoretically would improve the overall efficiency of  
22 your system.

23 Q Is that different from micro-grids? Are micro-grids a  
24 form of distributed generation, or are micro-grids  
25 another form of smart grids?

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1 A I'm not sure if it's a technical part of the smart grid  
2 system, or not. I'm sure it's designed to capture the  
3 same type of information and help you make decisions  
4 about economic operation of a system, whether it's a  
5 larger system or a smaller system within the overall  
6 operating grid of the company.

7 Q Okay. But at this point, your company's not using --  
8 or, is your company using any of the smart grid  
9 technologies?

10 A We certainly have people that are knowledgeable of the  
11 smart grid technology. As it continues to develop,  
12 there may be applications in the long term that make  
13 good sense for us. We do have different types of  
14 systems or operations we can control on our system,  
15 probably not to the fullest extent of a fully  
16 implemented smart grid system, which would probably not  
17 be cost effective at this point, but we will continue to  
18 monitor that technology and make implementations as it  
19 makes good sense for the customers.

20 Q Would that help with shift-loading kinds of decisions?

21 A It could, yes.

22 Q Okay. Thank you. And I'm going to stop at this point.  
23 I think some of the things that I was going to ask you,  
24 I can ask Mr. Byrne tomorrow, because you referred to  
25 him. I thank you very much.

From: MARSH, KEVIN B <KMARSH@scana.com>  
 Sent: Tuesday, June 4, 2013 11:48 AM  
 To: ROWLAND, PAULA <PROWLAND@scana.com>; MARSH, KEVIN B <KMARSH@scana.com>  
 Subject: Directors

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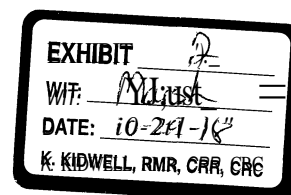
Paula,  
 Will you please forward the following message to the directors. Thx. Kevin

Late last week we received the module delivery schedule we asked CB&I to provide us. In our meeting with their new CEO, Phil Asherman, earlier this year we asked them to give us a module delivery schedule we could rely on for planning and scheduling purposes. We explained that Shaw had failed numerous times in providing an accurate schedule. They have given us their revised schedule, and based on that schedule the completion of Unit 2 will slide from March 2017 until late 2017 or the first quarter of 2018. Completion of Unit 3 will also need to move, but they have not focused their efforts on that calculation at this time. We are in the process of reviewing the new schedule and will continue to work with CB&I to gain an appropriate level of comfort with the new completion dates. The impact on cost has not been determined and will certainly be a challenge given our previous settlement with Shaw that we would not incur any additional costs related to module delivery delays. On a positive note, the last three modules we have received have come in ahead of the latest schedule dates. Too early to tell if this will continue.

I wanted to give you this update because we will be doing our annual analysts presentation in NYC tomorrow. While we cannot determine the actual cost of the delay at this point we are doing our best to define some preliminary boundaries on the cost of the delay to keep the market from assuming the worst. Jimmy, Steve and I will be working on this today in preparation of the meeting tomorrow. I will keep you posted as we know more.

If you would like to listen to the analysts presentation tomorrow, it starts at 8:30 in the morning and should be accessible through our website.

Thanks,  
 Kevin  
 803-543-5200





Lonnie N. Carter  
President and  
Chief Executive Officer  
(843) 761-4192  
fax: (843) 761-7037  
lonnie@santeecooper.com

**\*Confidential Contract Negotiations\***

August 23, 2013

Kevin B. Marsh  
Chairman & CEO  
SCE&G  
220 Operation Way D302  
Cayce, South Carolina 29033

Dear Kevin:

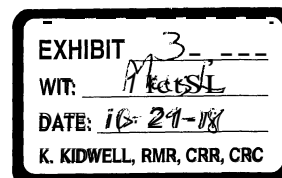
For almost two years, SCE&G and Santee Cooper have been working with the Consortium (Westinghouse and CB&I) to correct submodule delivery issues from the Lake Charles fabrication facility. When we discussed these problems earlier this year, we were hopeful that the Chicago Bridge & Iron (CB&I) acquisition of The Shaw Group (February 2013) would have an overall positive impact on the project, and particularly, a positive impact on the Consortium's ability to fabricate and deliver submodules.

On April 9, 2013, we met in Columbia with CB&I executive leadership to review its module fabrication status, to include its plan to correct Lake Charles performance issues. CB&I committed to deliver 83 submodules by the end of 2013. Several days after the meeting, CB&I provided its submodule delivery schedule, also dated April 9, 2013, which committed CB&I to only 69 submodules for the remainder of 2013.

As anticipated, the CB&I submodule delivery schedule was integrated into the overall project schedule and resulted in a delay to substantial completion of V.C. Summer Unit 2. This delay was quantified as nine to twelve months and publicly announced to the financial community by SCE&G at an Analyst Day presentation June 5, 2013.

As I am sure you are aware, based on the CB&I schedule, only five of thirteen scheduled submodules have been delivered as of this writing. Although early indications seemed positive that CB&I executive management were engaged in improving the performance at Lake Charles, the delivery record unfortunately demonstrates otherwise, placing the project schedule in jeopardy once again. I know you agree that this is unacceptable.

The Consortium's inability to deliver submodules has been a major source of concern and risk for this project for a long time. At the last president's meeting on June 21, 2013, the Westinghouse and CB&I discussion demonstrated that they do not function well as a team to resolve critical project issues. The Consortium's schedule performance, including any associated module delay costs currently embedded in project costs or future claims against the



Kevin B. Marsh  
August 23, 2013  
Page 2

project, are simply unacceptable to Santee Cooper. Our view is that the Consortium's inability to fulfill their contractual commitments in a timely manner places the project's future in danger. SCE&G and Santee Cooper need to examine together the remedies provided for under the EPC for the Consortium's failure to perform and exercise the fullest extent those remedies to protect our interests.

Kevin, based on our discussion, I know that you share my concern for the fabrication of the submodules in a timely manner. This has become a critical issue for the project and our companies. I recommend that we meet with our senior team members involved in the project and develop a plan forward. The plan should make clear that we hold the Consortium accountable for the costs to our companies and should insist on the Consortium providing a realistic plan that can be executed by the Consortium to fabricate and deliver the submodules in a timely manner to complete the project on schedule.

Please call me soon to further discuss this matter.

Sincerely,

  
Lonnie N. Carter

LNC:alh

**To:** LINDSAY, RONALD[RONALD.LINDSAY@scana.com]  
**From:** BYNUM, ALVIS J JR  
**Sent:** Thur 9/5/2013 7:54:33 PM  
**Subject:** Fw: Fwd: Meeting with SCANA and Santee Cooper

Al Bynum

---

**From:** Pelcher, Steve [mailto:stephen.pelcher@santeecooper.com]  
**Sent:** Thursday, September 05, 2013 07:20 PM  
**To:** BYNUM, ALVIS J JR  
**Subject:** Fwd: Meeting with SCANA and Santee Cooper

Stephen Pelcher

Begin forwarded message:

**From:** "Carter, Lonnie" <lonnie.carter@santeecooper.com>  
**Date:** September 5, 2013, 6:23:27 PM EDT  
**To:** "MARSH, KEVIN B" <KMARSH@scana.com>  
**Cc:** "Brogdon, James" <jim.brogdon@santeecooper.com>  
**Subject:** RE: Meeting with SCANA and Santee Cooper

Kevin,

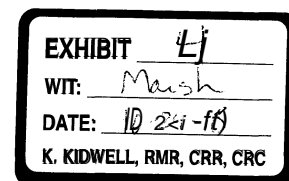
Thanks. I believe your letter is clear and expresses the urgency well. I can make all of the dates you have given them work.

Let me know when we can get together with our teams to consider our options and chart a course to get them back on schedule. My folks have been meeting and considering various options that we would like to discuss with you and your team. One thing they brought to my attention today is that SCANA has outside counsel with construction litigation experience (Smith Currie and Hancock?). I assume they would likely represent SCANA and Santee Cooper in any litigation. If that is the case, I recommend we get them involved. We need their advice before we meet with Roderick and Asherman.

I hope you hear from these guys before close of business tomorrow. If you don't, that will be a really bad sign.

Please call me when you hear something or have a suggested time for us to meet.

Thanks,  
 Lonnie



**From:** MARSH, KEVIN B [mailto:KWMARSH@scana.com]  
**Sent:** Thursday, September 05, 2013 5:29 PM  
**To:** roderidl@westinghouse.com; pasherman@cbl.com  
**Cc:** Carter, Lonnie; BYRNE, STEPHEN A; ARCHIE, JEFFREY B; BYNUM, ALVIS J JR; LINDSAY, RONALD; ADDISON, JIMMY E  
**Subject:** Meeting with SCANA and Santee Cooper

Dear Danny and Phil,

I requested a meeting with both of you two weeks ago to discuss the status of our nuclear project. We and our partner Santee Cooper continue to have serious concerns about the consortium's ability to deliver modules from the Lake Charles facility. The consortium is now in its third year of unsuccessful attempts to resolve its manufacturing problems at the facility which continue to impact our project negatively. Your missed deadlines put potentially unrecoverable stress on the milestone schedule approved by the SC Public Service Commission. I don't have to remind you that continuing delays and cost overruns are unacceptable from a public perspective and could have serious effects. We need to meet.

Please consider 9/13 at 10am or after, 9/16 at 3pm, 9/18, or 9/20 as potential dates for a meeting. You can fly to our hanger at the Columbia Airport and we will meet in the conference room.

Thank You.

Kevin Marsh  
 SCANA Corporation  
 803-217-8097

**Confidentiality Notice:**

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone or reply to this e-mail, and delete all copies of this message.



May 6, 2014

Philip K. Asherman  
President & CEO  
CB&I  
One CB&I Plaza  
2103 Research Forest Drive  
The Woodlands, TX 77380

Danny L. Roderick  
President & CEO  
Westinghouse Electric Corporation  
1000 Westinghouse Drive, Suite 100  
Cranberry Township, PA 16066

Subject: V.C. Summer Units 2 and 3 Guaranteed Substantial Completion Dates

Reference: (1) Engineering, Procurement, and Construction Agreement for AP  
1000 Nuclear Power Plants, Dated May 23, 2008- V.C. Summer  
Units 2 and 3

(2) VSP\_VSG\_002024, dated August 6, 2012

Gentlemen:



On May 23, 2008, we executed the EPC Agreement with the Consortium for Units 2 and 3 at our V.C Summer nuclear facility. That was an historic day for our companies. We would like to believe that it was equally significant to you. Together, we helped kick off what we continue to hope will be a new wave of nuclear construction in this country.

The V.C. Summer facility offers the best template for future projects. Although you signed EPC agreements with two other utilities at about the same time, both of



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those projects are currently embroiled in major litigation. We chose a different path. We resolved to work with you amicably, believing that building the project cooperatively, on time and on budget, would be in the best interests of all involved.

The events since May 23, 2008 have tested our resolve. In this letter, we will review certain of those events for the benefit of your current management. We believe that such a review is called for because of the many turnovers in your management since May 23, 2008. With one possible exception, no one from your two companies who attended the signing ceremony is still involved in the project. Since then, Westinghouse has had at least two Presidents, three Project Directors, and two Commercial Directors. Shaw was acquired by CB&I, and has had comparable turnover, with five Commercial Directors, two Project Directors and two Construction Managers.

Before reviewing the relevant events, we wish to share with you our view that the management turnovers have been accompanied by a change in attitude. Senior managers who began the project appeared to appreciate the significance of the task to our customers and to the nuclear community at large, and exhibited a commensurate dedication. Events indicate that this has been replaced by a different attitude, one that is less focused and seems intent on taking advantage of our cooperative nature.

We should also mention that we have noted the evident deterioration of the relationship between senior management at Westinghouse and Shaw/CB&I. Repair of that relationship will likely be necessary if you are to satisfy our concerns. As a Consortium, the two firms are jointly and severally liable to us. It does not matter to us which of you caused a specific problem. We look to both of you to remedy all the Consortium's deficiencies.

We regret that this letter is necessary and regret its length. Your poor performance has made both necessary. A complete description of our grievances would make this letter even longer. Consequently, we have chosen to focus on the events and issues concerning the structural modules, primarily CA-20 and CA-01, as well as certain design issues, and their combined effect on the expected completion date and cost of the project. We selected these examples to illustrate our dissatisfaction. They are not an exhaustive listing of your every shortcoming.

#### **I. THE EPC AGREEMENT ESTABLISHED THE PROJECT SCHEDULE**

The EPC Agreement stated the Consortium's commitment to meet following dates for Unit 2:



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<u>Activity</u>	<u>Unit 2</u>
CA-20 On-Hook	November 18, 2011
CA-01 On-Hook	March 29, 2012
Guaranteed Substantial Completion	April 1, 2016

To meet these dates, it was essential that the Consortium timely complete module fabrication, delivery, and assembly. The Consortium selected Shaw Modular Solutions, LLC ("SMS"), an affiliate of the Consortium, as the module fabricator. Problems with SMS's work began almost immediately. The NRC attempted to inspect the SMS facility between January 10 and 12, 2011, but the inspection had to be "terminated early because of the current status of activities at SMS." To the NRC's apparent surprise, SMS had not yet made enough progress to make an inspection worthwhile.

By letter dated February 22, 2011, SMS advised the NRC of its expectations for module production and shipment, as follows:

SMS expects to be at a high level of production of structural modules in early June 2011. SMS expects that shipment of the first structural sub-module will occur the end of June 2011. ... If schedule changes are necessary, SMS will promptly notify the NRC.

SMS did not meet these module production and shipment dates. We are unaware if it gave the NRC the promised notice of these failures.

The NRC returned to inspect the SMS site between November 14 and 18, 2011. That inspection led to a "Notice of Nonconformance," dated January 6, 2012, based on deficiencies in SMS's quality assurance program. The Notice of Nonconformance stated:

During this inspection, the NRC inspection team found that the implementation of your quality assurance program failed to meet certain NRC requirements which were contractually imposed on you by your customers or NRC licensees. Specifically, the NRC inspection team determined that SMS was not fully implementing its quality assurance program in the areas of training, design control, procurement document control, control of special processes, control of measuring and test equipment, control of nonconforming items, and corrective actions consistent with regulatory and contractual requirements, and applicable implementing procedures.

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**II. THE AUGUST 6, 2012 AGREEMENT CHANGED THE GUARANTEED SUBSTANTIAL COMPLETION DATES**

By July 7, 2012, only 21 of 72 CA-20 sub-modules had been delivered to the site. Despite the poor progress, you assured us that you had resolved the module production problems. This led to the Agreement of August 6, 2012.

The 2012 Agreement recites that it resolved several pending change order requests. An additional motivation for us was to enable you to put the past module issues behind you and have a fresh start. Section IV.A of that agreement established the following revised guaranteed substantial completion dates:

<u>Activity</u>	<u>Unit 2</u>	<u>Unit 3</u>
Guaranteed Substantial Completion	March 15, 2017	May 15, 2018

After execution of the 2012 Agreement, you had no one to blame but yourselves for future module delays. Section IV.D of the 2012 Agreement made clear that future module delays would be your sole responsibility. It stated in pertinent part:

Except as otherwise provided for in Article 9 of the EPC Agreement or Section XII.D of this Agreement, Contractor will not submit further Change Orders for any impacts to Project Schedule or Contract Price associated with Structural Module schedule delays and agrees that such further schedule delays will be the responsibility of Contractor.

Although the parties released certain claims against each other in the 2012 Agreement, Section XII.D of the agreement stated that our release did not apply to any claims "that may arise hereunder from Contractor's failure to deliver the Structural Modules referenced in Section III.C of this Agreement, so as to achieve" the revised Guaranteed Substantial Completion Dates.

The 2012 Agreement imposed on the Consortium certain additional scheduling obligations to enable us to monitor module progress. Section IV.D of that agreement stated:

In order to measure impacts to the Project Schedule associated with Structural Module delivery, Contractor agrees to provide a detailed Structural Module delivery and assembly baseline schedule within 30 calendar days of the execution of this Agreement and to report actual progress against this schedule on at least a monthly basis.



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The Consortium prepared the new baseline schedule for module delivery and assembly, as called for in this Agreement, but it has not provided the monthly progress reports.

In sum, the Consortium decided to engage SMS, an affiliated entity, as the module fabrication subcontractor. SMS proved to be neither equipped nor qualified to produce the modules. Nevertheless, in July 2012, we worked with you amicably by allowing you additional time that was made necessary, at least in part, by SMS's poor performance. In exchange, you agreed that you would not be entitled to any additional time extensions due to future module delays.

### III. MODULE DELAYS CONTINUED AFTER THE 2012 AGREEMENT

Despite the Consortium's assurances, module production did not improve after the 2012 Agreement. The Consortium issued a module delivery and assembly baseline schedule, dated August 10, 2012, as called for in the 2012 Agreement. That schedule contained a series of milestone dates, including the following on-hook dates for CA-20 and CA-01:

<u>Activity</u>	<u>Unit 2 Milestone Date</u>
CA-20 On-Hook	January 19, 2013
CA-01 On-Hook	May 28, 2013

The Consortium has not met these on-hook dates or any other milestone dates in that schedule.

#### A. Module Status In September 2012

As of September 27, 2012, at least thirty of the milestone dates had already come and gone without completion of the associated milestone event. By that time, only 31 of the 72 sub-modules for CA-20 had been delivered to the site. As a result of the module production and delivery delays, we wrote to you on September 27, 2012. That letter stated:

Due to the current status of the structural modules, the Owner remains concerned that the late fabrication, delivery, and installation of structural modules will impact the Consortium's ability to meet the critical path schedule date of January 28, 2013<sup>1</sup> (CA20 on-hook date), and eventually to meet the revised Unit 2 Guaranteed Substantial Completion Date (GSCD) and possibly the Unit 3 GSCD. The Owner requests the

<sup>1</sup> This date was incorrect. The letter should have referenced a January 19, 2013 CA-20 on-hook date.

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Consortium continue to provide structural module status updates during the weekly project review meetings and other status updates as previously agreed. Also, beginning no later than October 10, 2012, provide bi-weekly written status updates on the fabrication, delivery, and installation of the structural modules, including information on any structural module issues. Finally, the Owner requests the Consortium review with the Owner the Consortium's documented contingency plans concerning the structural modules prior to October 19, 2012. These contingency plans should include, at a minimum, actions to be taken by the Consortium to meet currently scheduled structural modules CA01-CA05 and CA20 on-hook dates and installation dates to support the Project schedule.

The Consortium did not comply with any of these requests.

As of September 2012, you had still not resolved your NRC issues. The NRC performed an unannounced inspection on September 10-14, 2012, which led to another "Notice of Nonconformance" arising out of deficiencies in SMS's quality assurance program. The NRC documented this in its letter of October 24, 2012, which stated:

During the inspection, the inspectors found that the implementation of your QA program did not to meet [sic] certain NRC requirements imposed on you by your customers or NRC licensees. Specifically, SMS failed to promptly correct conditions adverse to quality and significant questions adverse to quality, failed to effectively implement a corrective action regarding documentation of late entries in a quality records procedure, failed to preclude recurrence of significant conditions adverse to quality related to identification and control of items, and failed to perform adequate corrective actions associated with a nonconformance identified during a previous NRC inspection.

Shortly after this, the NRC advised CB&I of a "chilled work environment" at the Lake Charles facility, which was causing employees to believe that they "are not free to raise safety concerns using all available avenues" and that "individuals have been retaliated against for raising safety concerns."

#### **B. Module Status In March 2013**

By March 6, 2013, only 40 of the 72 sub-modules for CA-20 had been received. At our request, a meeting to discuss module production was held among executive officers in Columbia on April 9, 2013. Westinghouse did not attend the meeting, but CB&I was there and it promised that the Consortium would deliver four modules in the



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second quarter of 2013, 40 modules in the third quarter, and 39 modules in the fourth quarter. It also informed us of a significant delay in the on-hook dates, as follows:

<u>Activity</u>	<u>Delayed Unit 2 Date</u>
CA-20 On-Hook	October 31, 2013
CA-01 On-Hook	September 4, 2014

The Consortium missed the revised CA-20 on-hook date of October 31, 2013 and, as of today, has yet to reach this milestone. The Consortium is also not on schedule to meet the revised CA-01 on-hook date of September 4, 2014.

**C. Module Status In May 2013**

By May 25, 2013, the Consortium had delivered only 41 of the 72 CA-20 sub-modules. And it had delivered only one of these in the preceding eleven weeks.

**D. The Consortium Reported Schedule Delays In June 2013**

On June 5, 2013, SCE&G publicly disclosed your statement to us that you would not be able to meet the required completion dates in the 2012 Agreement. We reported your estimate that completion of unit 2 would occur in either the fourth quarter of 2017 or the first quarter of 2018 and your estimate that completion of unit 3 would be "similarly delayed." Due to these delays, we also reported that SCE&G's 55% cost of the project could increase by \$200 million. We noted that these schedule changes and cost increases resulted from "delays in the schedule for fabrication and delivery of sub-modules for the new units."

**E. Module Status In July 2013**

We saw no improvement over the next several months. By July 18, 2013, the Consortium had delivered only 44 of the 72 CA-20 sub-modules. This means that it had delivered only three modules in the preceding 11 weeks.

On August 7, we sent you another letter expressing our concerns about delays. On September 17, you advised us that, unless we objected, you would move the work of completing some CA-20 sub-modules from Lake Charles to the site. Your proposal was to move the uncompleted sub-modules into a temporary, onsite quarantine area to complete document processing and make minor repairs. We responded that we would not interfere with your decisions about how best to perform the work.

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**F. The Consortium Reported Further Schedule Delays In September 2013**

On September 18, 2013, the executives of all involved companies met in Columbia. That meeting resulted in a September 25 letter from you, which included a schedule showing the following activities and dates:

<u>Activity</u>	<u>Unit 2 Target Date</u>	<u>Unit 2 Late Date</u>
CA-20 On-Hook	January 24, 2014	January 27, 2014
CA-01 On-Hook	July 18, 2014	September 18, 2014
Substantial Completion	December 15, 2017	December 15, 2017

Your letter also stated that:

The Unit 2 CA01 sub-module delivery schedule is being reviewed to incorporate the latest information and will be transmitted to you by October 2, 2013. We have scheduled a management meeting on October 3, 2013, to review these deliverables with your team.

The promised October 2 letter and schedule showed that all CA-20 sub-modules would be delivered by November 4, and CA-01 sub-module shipments would extend between November 3, 2013 and July 18, 2014. The letter and schedule also introduced, for the first time, a CA-20 "minimum configuration" concept that we believe has the potential to further impede your ability to achieve timely project completion. This concept conflicts with the 2012 Agreement, and associated August 10, 2012 baseline schedule, which call for a complete (equipment loaded) CA-20 module to be set on its foundation by January 19, 2013.

Your October 2, 2013 letter went on to state:

The Consortium is taking additional management measures to add certainty to this schedule. Resources have been added to engineering to reduce the backlog of E&DCRs and N&Ds and improve the turnaround time to disposition these items. Personnel from Lake Charles have been located at the V.C. Summer site to perform final inspections and document closeout. Resources have been added to the modules team to repair or rework any conditions identified on the sub-modules and prepare them for assembly. A daily Lake Charles Plan of the Day process has been implemented to drive schedule, elevate issues and resolve problems. Weekly CBI senior management review and monitoring of Lake Charles progress against the plan has been established. Milestone Managers are



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being added to the site team to drive schedule and accountability for module assembly and placement. We believe that actions such as these will improve performance.

Although this letter does not amend the EPC Agreement or modify our commercial positions, we commit our support to the Project in achieving the schedules provided herein. We will maintain frequent and transparent communications with your staff to ensure that any significant change in schedule is raised and understood. We encourage SCANA to monitor our schedules and provide immediate feedback if they are not meeting your expectations.

Of the CA-20 sub-modules remaining to be delivered as of this date, seven were earmarked for delivery to the onsite quarantine area for completion of document processing and minor repairs. Those sub-modules were not ready to be incorporated into the construction.

Weekly module update calls began on October 14. By December, however, the level of participation by Consortium management had begun to wane. "Frequent and transparent" communications did not materialize, and we have not received "immediate feedback" when we have raised schedule issues.

In our letter of October 21, 2013, we stated:

You have represented that this schedule embodies the Consortium's realistic expectations concerning performance of Unit 2 work and its commitment to achieve Unit 2 substantial completion date by December 15, 2017.

We appreciate the Consortium's efforts in preparing these schedules and the Consortium's commitment to allocate additional resources and to perform as to achieve Unit 2 substantial completion by December 15, 2017. We must remind you, however, that the Consortium remains contractually committed to the dates for substantial completion stated in the July 11, 2012 Letter Agreement. As you correctly noted, the schedules in no way amend the Agreement. In the Letter Agreement, the parties agreed to a Unit 2 Guaranteed Substantial Completion Date of March 15, 2017, and a Unit 3 Guaranteed Substantial Completion Date of May 15, 2018.

**G. Design Deficiencies Came To Light During September 2013 On-Site Assembly**

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On September 3, 2013, Westinghouse informed us that it had identified problems with the design of CA-04. The Consortium had planned to set that module on the Nuclear Island in September 2013, but it delayed that work because of the need to modify the concrete foundation. The foundation placement was then put on hold during the foundation redesign and associated procurement.

#### **H. Module Status In December 2013**

By December 4, 2013, all 72 CA-20 sub-modules had finally been delivered to the site, although 30 of them required documentation processing and repairs at the on-site quarantine area. The modification effort continued well into 2014.

On January 8, 2014, Westinghouse informed us that six Engineering and Design Coordination Reports (E&DCR) had to be completed before placement of CA-20. It also advised us that another sixteen E&DCRs would need to be completed after placement of CA-20, but before placement of wall concrete.

As of February 2014, none of the 47 CA-01 sub-modules had been delivered, although 20 should have been delivered by then, according to the October 2, 2013 schedule.

#### **I. Module Status In March 2014**

The Consortium has been providing our construction team with daily email updates relating to CA-20, but the updates continue to illustrate performance shortcomings. The March 11, 2014 email update reflected an on-hook date of March 31. The email updates of March 12 and 13 reflected the same date, but stated that such date was "in jeopardy" and pending management review. The March 14, 15, 17 and 18 email updates all reflected a date of April 7 for this activity. Those from March 20, 21, 22, 23, 25, 26 and 27 all stated that the April 7 date was "under review." Beginning on March 28, the email updates stated that the on-hook date had slipped again to May 10. In short, the projected on-hook date for CA-20 continues to slip and, by the end of March, we were farther away from completion of that activity than the Consortium had stated we were at the beginning of March.

The Consortium's progress with CA-01 has also been poor. Westinghouse has informed us that it is reviewing its design for that module and future changes could delay its placement. Due to these design issues, documentation approving placement of CA-01 is not expected until August 31, 2014.



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#### IV. DESIGN ISSUES HAVE CONTRIBUTED TO THE PROJECT DELAY

##### A. IFC Design Delays

Other design issues, in addition to those identified above, have also delayed the project and are expected to contribute to future delays. Foremost among these is the delayed completion of Issued For Construction (IFC) drawings. The IFC percentage complete is the Consortium's primary metric for evaluating the status of design. That information shows that the Consortium has failed to meet expectations for design finalization and has misjudged its own performance.

The Consortium's early reports of design progress were optimistic. For example, in the March 17, 2011 Monthly Project Review minutes, the Consortium reported that it had delivered 90.49% of the scheduled IFC documents. As a result, the Consortium stated, "Design finalization is coming to an end and transitioning to support the Certified for Construction (CFC) design."

The May 19, 2011 Monthly Project Review minutes continued to reflect satisfactory progress. They reported Westinghouse's statement that design finalization was considered to be complete by the Department of Energy (DOE) and according to WEC's definition. The minutes also reported Westinghouse's estimate that the design was 95% complete. In addition, they reported Westinghouse's statement that the remaining engineering had been defined in a resource-loaded schedule, which it would use to monitor progress to completion.

The October 20, 2011 Monthly Project Review minutes reported Westinghouse's statement that site-specific engineering was winding down and that design finalization should be complete in the summer of 2012.

The Consortium began reporting design delays in May 2012, when you advised us that you would not meet the October 11, 2012 schedule for many of the IFC packages. On December 31, 2013, the Consortium reported to us that the IFC design documents were now only 94% complete. The Consortium continued this trend of revising design progress downward. On March 31, 2014, Westinghouse reported that the IFC documents were only 88% complete.

##### B. Design Issues Impact Nuclear Island Civil/Structural Work

Westinghouse's many design changes have also adversely impacted the Nuclear Island (NI) civil/structural work. One example concerns the A2 I wall in the Auxiliary

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Building, which is a fairly simple reinforced concrete wall. Two of the construction packages are VS2-1210-COW-003 (rebar/embeds for I wall areas 4 and 5) and VS2-1210-CCW-001 (concrete for I wall areas 4 and 5). There were 109 unique E&DCRs between the two work packages. Ninety-two (92) of the E&DCRs were WEC initiated. This wall placement was delayed several weeks due to the design clarifications and changes.

**C. Design Issues Are Requiring Multiple License Amendment Requests**

The lack of WEC design maturity is evident in the high numbers of License Amendment Requests (LARs) and Departures to the Final Safety Analysis Report (FSAR) being submitted. As noted in the April 17, 2014 project status review meeting, 90 LARs have been identified; the NRC has approved 11 LARs; and 15 LARs are under NRC review. The following are three examples of these LARs and their importance:

- LAR 13-01/WEC LAR 54 (base mat shear reinforcement design spacing requirements) adversely impacted the schedule for Unit 2 nuclear island base mat concrete placement.
- LAR 13-02/WEC LAR 55 (base mat shear reinforcement design details revising the licensing basis from ACI 349 to ACI 318) also adversely impacted the schedule for Unit 2 nuclear island base mat concrete placement.
- LAR 14-01/MEC LAR 60 (Auxiliary Building structural details) has adversely impacted the schedules for construction of Auxiliary Building walls and floors and construction of structural module CA 20.

Furthermore, we anticipate that LAR 13-33/WEC LAR 53 (condensate return in the Containment Building) will impact construction progress. The same is true of LAR 14-07/WEC LAR 78 (CA04 tolerances); LAR 14-05/WEC LAR 72- CA05; LAR 13-13/WEC LAR 02a (Turbine Building structural layout, which has been approved for Plant Vogtle); and LAR 13-14/WEC LAR 08 (Battery Room changes). We also anticipate that an LAR will be needed for coating thermal conductivity methods, which will impact Containment Vessel ring 1.

In addition to the LARs, the Consortium has also had a large number of Departures. The April 17, 2014 project status report states that 595 Departures have



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been identified. Of these 237 are in process and 358 are in the queue. These Departures do not require NRC review but have the potential for impacting the project schedule due to Westinghouse's design changes.

## **V. OUR FRUSTRATION CONTINUES TO MOUNT**

As a result of these events, our frustration continues to mount. You have made promise after promise, but fulfilled few of them.

We are aware that the Consortium is in the process of preparing yet another re-baseline of the project schedule. We are entitled to a re-baseline schedule that reflects all mitigation measures reasonably possible to ensure completion of Units 2 and 3 on or near the currently projected completion dates. Please note that this statement of our rights is not an acceleration order. The currently projected completion dates are already past the dates to which the parties agreed in the 2012 Agreement. The delays since then have been solely the Consortium's fault. Thus, you are contractually obligated to take the steps necessary to mitigate the delays at your own expense.

Your unexcused delays will cause our project costs to increase greatly. We intend to hold you strictly to all provisions of the EPC Agreement and expect you to reimburse us for all our additional costs.

We have prepared a preliminary estimate of the added costs associated with your most recent completion projections, that is, completion of unit 2 in either the fourth quarter of 2017 or the first quarter of 2018 and a similar delay to completion of unit 3. Based on such delays, we estimate that we will incur about \$150 million in additional site costs, and will be entitled to about \$100 million in liquidated damages. If you fail to meet your most recent completion projections, these amounts will be even higher. We are in the process of investigating other additional costs that we are incurring due to the unexcused delays or associated changes to your work plan. We will advise you of their categories and amounts once we have completed our investigation.

Any future delays to those projections will require further adjustments to the payment schedules.

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VI. **CONCLUSION**


It is imperative that the Consortium demonstrate a renewed commitment to this project. To help achieve that, we wish to discuss these performance deficiencies and associated delays with you, as well as the measures that you intend to take to mitigate the delays. We also wish to explore with you the extent to which the Consortium's unexcused project delays constitute breaches of material provisions of the EPC Agreement.

Respectfully,



Lonnie N. Carter

President & CEO Santee Cooper



Kevin B. Marsh

President & CEO SCANA



**Crosby, Michael**

**From:** Carter, Lonnie  
**Sent:** Monday, September 08, 2014 6:13 PM  
**To:** Baxley, Mike; Pelcher, Steve; Crosby, Michael  
**Subject:** FW: Summer Units 2 & 3

I just sent this to Kevin. I made a few minor changes.

**From:** Carter, Lonnie  
**Sent:** Monday, September 08, 2014 6:12 PM  
**To:** 'MARSH, KEVIN B'  
**Subject:** RE: Summer Units 2 & 3

Kevin:

Thank you for your email concerning management of the new nuclear project and our negotiations with the Consortium.

1. Santee Cooper is in agreement on moving forward to engage additional resources in construction management. I agree that Jeff Archie and Michael Crosby work together to develop a job description and placement for you and I to concur. This will allow us to better identify potential candidates. My thinking is that the first task for this individual will be to determine the scope of the task at hand, and the number of personnel/resources needed.
2. With respect to negotiating a new project schedule with the Consortium, my sense is that neither the Owners nor the Consortium have any real confidence that the proposed rollout schedule that the Consortium shared with the Owners on August 1st is achievable. I am concerned that we have become tied to artificial dates, both past and future, often driven by disclosure considerations. The Owners and the Consortium need a schedule that we all have confidence can be achieved and thereby hold the Consortium accountable to achieving milestones. Since the Consortium is so far behind schedule, they should already take steps to mitigate any further delays.

For the Owners to have real conversations and negotiations with the Consortium, we must first complete a detailed review of the schedule information provided based upon the critical path forward, which necessarily includes a consideration of the Shield Building. This would include collectively studying and discussing the June 2019 IPS and supporting Shield Building critical path documentation for the purpose of developing a list of concerns that need to be addressed by the Consortium. **Redacted - Privileged** we should ask George Wenick and Frank Elmore. **Redacted - Privileged**

**Redacted - Privileged**

**Redacted - Privileged**

**Redacted - Privileged** These two points of information would

form the basis for further conversations and negotiations with the Consortium going forward.

As I shared with you before, to the extent that the Consortium is requesting sums from Owners to which they are not presently entitled, Santee Cooper will not agree to pay such amounts absent new and substantial consideration to support such payments. Rewarding the Consortium for poor performance and misse

EXHIBIT

WIT:

DATE:

K. KIDWELL, RMR, CRR, CRC

Confidential Treatment Requested by Santee Cooper

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schedules would be counterproductive. Although Santee Cooper is open as what new and substantial consideration might look like, a Toshiba Performance Guaranty, unbounded by those provisions in the EPC limiting the Consortium's liability, might be worth considering.

3. With respect to disclosure, as you are aware, Santee Cooper intends to issue refunding bonds next month, and must finalize related disclosure documents this week. Our various stakeholders are already aware from the previous disclosure that there has been a delay in construction, and are awaiting further information on the financial component of that delay. We dispute the Consortium's entitlement to almost all of the additional costs (with the exception of agreed site layout and cyber security modifications, less than \$55M which remains to be negotiated), and do not intend to pay any further sum unless we are convinced by the Consortium of their right to payment under the EPC agreement and the accuracy of the requested amounts. Based upon legal advice, Redacted - Privileged

# Redacted - Privileged

Please remember that I am not available for a meeting with the Consortium on October 13 due to longstanding schedule commitments. I look forward to discussing these various issues with you and will make my schedule available to that end. I agree with you that we need a strategy for our further conversations and negotiations with the Consortium because time is now of the essence for this Project.

Thanks,

Lonnie

From: MARSH, KEVIN B [mailto:KMARSH@scana.com]

Sent: Wednesday, September 03, 2014 2:06 PM

To: Carter, Lonnie

Subject:

Lonnie,

I met with my team this morning on a number of nuclear matters and wanted to share our thoughts with you:

1. We discussed the preliminary number given to us late last week by the consortium for delay costs associated with the revised baseline schedule. As you and I discussed last week, this number is very preliminary and will be the basis for lengthy negotiations that will take place over the next several months. I am confident that the number will change as we work to secure a more definite commitment from the consortium with more of their "skin in the game". Since we have already disclosed that we expected to receive a preliminary number, that there would be negotiations around it, and that we plan to complete those negotiations by year end, we don't believe any additional disclosures about the dollar amount of the preliminary cost delay number are necessary. I know that you are planning a bond financing later this month, so I wanted share our thoughts with you and your team with the goal of making our financial disclosures consistent.



2. Our team will begin a review of the delay cost financial information as part of the overall evaluation of the revised baseline schedule. We welcome the assistance of your team in this process. Once we have reviewed the numbers and the schedule, we will be in a position to develop our strategy for negotiations with the consortium that will begin on October 13<sup>th</sup>.
3. We are ready to move forward with hiring/engaging an additional resource with significant construction expertise to assist us with evaluating the construction schedule and project status. I believe having this person on our staff vs. working as a consultant will avoid conflicts with the consortium on proprietary matters. I would recommend that Jeff Archie work with Mike Crosby to help identify potential candidates for this role.

4. Your legal team asked George Wenick

Refacted - Privileged  
Redacted - Privileged

# Redacted - Privileged

I would be pleased to discuss any of these issues further as we both continue to work hard keep our project moving in the right direction. I appreciate and welcome your thoughts.

Kevin

\*\*\*\*\*  
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# EAC Review Team

## Preliminary Update

### Preparation for 10/12/14 Executive Meeting

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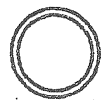
KEN BROWNE, MARGARET FELKEL,  
KEVIN KOCHEMS, SHERI WICKER, AND  
KYLE YOUNG

CONFIDENTIAL DRAFT  
Prepared 10/6/2014

EXHIBIT	7
WIT:	Marsh
DATE:	10-2-14
K. KIDWELL, RMR, CRR, CRC	



# Introduction



- Acknowledging that the EAC Review Team (EAC Team) has not completed its review, this presentation is a summary of costs we believe the Consortium is not entitled to.
- Note that all dollar amounts are 100%, in 2007 dollars, and based on COD's of 12/18 and 12/19.

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# CB&I Direct Craft Productivity



- ⑥ CB&I projects the To-Go PF will be 1.15. (ITD PF as of \$/14 is 1.46.)
- ⑥ EAC Team recommends holding CB&I accountable to this PF, only paying up to this level
- ⑥ EAC Team anticipates a To-Go PF closer to 1.40 and recalculated the cost, resulting in an additional increase of approximately \$101M. (This is the cost impact of the To-Go PF of 1.40 vs. 1.15 and is not included in the Consortium EAC.)
- ⑥ This does not address excessive Indirect Craft present on site and an additional opportunity exists to challenge costs above established Direct/Indirect ratios.

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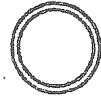
# CB&I Schedule Impact

- CB&I estimates the Structural Module Delay in the schedule costs **\$221M**.
- Based on CB&I's estimating methodology, the EAC Team believes this to be an inflated cost. *Consortium ded an estimate w/ a look forward to incremental cost we think last 13 months were the delay*
- EAC Team recommends \$0 entitlement as the delay is due to Structural Module Delays.
- In addition, CB&I has included a cost impact of **\$114M** from 2013 Basemat Rebar "WEC Design Issue" in the "Other Misc. Adjustments" column of the EAC. (It is assumed that this cost has already been incurred by the Owner.)

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# CB&I Contingency



- CB&I projects an additional \$77M of contingency for a total contingency of \$200M.

- EAC Team recommends removal of the \$77M from EAC, leaving \$123M remaining in contingency.

- Note: The Consortium Contingency account of \$123M has been restored due to inclusion of previous usage of contingency in the "Quantity Changes" and "Other Miscellaneous Adjustments" categories of the EAC.

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# CB&I Shield Building Risk



- In addition to the CB&I issues contained in the EAC provided by the Consortium, the EAC review team has identified an omission that should be mentioned.
- Construction of the Shield Building presents an additional risk to the project.
- Increasing the base labor hours for Shield Building erection to the original estimate quantities represents an increase of \$14.9M to the EAC at CB&I Services labor rates.

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# CB&I Field Non-Manual

Q

- CB&I projects are in FNM costs of \$170M. [total \$307M  
in "other"]
- EAC Team verified the EAC using the current CB&I FNM plan, which is lean. The EAC Team does not anticipate that CB&I will be able to comply with this plan.
- CB&I currently receives a contract based mark-up of 1.30 for all FNM labor costs. The Owner has verified on numerous occasions that the mark-up CB&I actually incurs on FNM labor costs is approximately 1.30.
- EAC Team recommends a reduction in FNM mark-up to 1.40. [bri? no m, rail]
- Addition of FNM costs above the original estimate using a 1.40 mark-up. This will result in an EAC reduction of approximately \$48M.

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# CB&I Acceleration

Q

CB&I projects an increase of approximately \$168M for acceleration to meet the December 2018/2019 SCDs.

This cost is based on a limited night shift of 340 hrs of craft; 100 indirect craft; and 60 FNM. There is also an additional 100 FNM on day shift to support the night shift.

The proposed September 2018/November 2019 schedule will result in additional acceleration impacts, not yet quantified by the Consortium.

EAC Team recommends \$0 entitlement because the acceleration is necessary due to Structural Module Delays.

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# CB&I Woodlands Cuts

- CB&I cut the EAC by \$296M at a very high-level. How these cuts will be realized has yet to be determined.
- Under Target Price scheme, all actual costs are reimbursed.....

	Woodlands Adjustment	Project Adjustment	Total Adjustment
Indirect	(30,000)	-	(30,000)
FE Increase	(163,500)	-	(163,500)
FNM Reduction	(49,000)	-	(49,000)
Project Adjustment	-	25,000	25,000
FNM	(187,500)	25,000	(162,500)
Direct Subcontracts	(19,300)	-	(19,300)
Distrib	(37,000)	-	(37,000)
Escalation	(23,400)	-	(23,400)
OOMs	(532)	-	(532)
Project ICA	1,629	-	1,629
Other Costs	(22,303)	-	(22,303)
<b>Total</b>	<b>(321,103)</b>	<b>25,000</b>	<b>(296,103)</b>

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# WEC Schedule Impact



- ⑥ WEC projects a delay in the schedule will cost **\$76M**.
- ⑥ \$64M of the \$76M is due to increases in the CV subcontract cost. EAC Team found several errors in this estimate reducing the EAC impact to \$35M. (WEC has been requested to revise the EAC)
- ⑥ \$12M of the \$76M is due to hotel load increases for Plant Start-up and Licensing.
- ⑥ EAC Team recommends \$0 entitlement because the delay is due to Structural Module Delays.

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# Base Scope Refinement



- **EPC Management** - WEC has indicated that their 'best talent' approach, in addition to CB&I on-site management, will add WEC staff costs totaling approximately **\$22M**.
- WEC EPC Target work scope does not currently include this function or cost.
- **EAC Team recommends \$0 entitlement** as this cost is due to Consortium (CB&I) inefficiencies.
- **Licensing** - WEC projects an increase in the Licensing & T&E costs totaling **\$28M**.
- EAC Team recommends \$0 entitlement as this is Firm Price work.

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# Regulatory Driven



- **Start-up and Testing** - WEC projects an increase in CVAP and FOAK testing of \$23M. (Waiting on WEC Cost...)
- EAC Team recommends all home office planning and procedure development be removed from the EAC and considered Firm ~~price~~ \$11.5M. (Pending receipt of WEC Cost)

..... *cd(AIP). Comprehensive vibration program*

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# Owner Challenges



- The cost of unrealized savings projections that have been included in the EAC by the Consortium will be reimbursed under Target Price and T&M payment processes.
- Much of the costs for Structural Module Delays and PF Impacts have already been paid through Target Price payments.
- When it is determined these or similar costs will not be paid by the Owner, the process to ensure they are withheld from an invoice will be a significant challenge. (Consortium may not agree with the reductions).

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